



California Regulatory Notice Register

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OCTOBER 18, 2002

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

MULTI-COUNTY:

**Southern California Association of Government
Santa Maria Joint Union High School District
Reclamation District #2063
Tehama-Colusa Canal Authority**

A written comment period has been established commencing on **October 18, 2002** and closing on **December 2, 2002**. Written comments should be directed to the Fair Political Practices Commission, Attention Cynthia A. Jones, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive

Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **December 2, 2002**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Cynthia A. Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Cynthia A. Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action. The Department proposes to continue the regulation as amended.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with provisions of 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before December 2, 2002.

INFORMATIVE DIGEST//POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

The amendment of Section 3423(b) establishes a quarantine area of approximately 73 square miles surrounding the Rancho Cucamonga area of San Bernardino County and includes a small portion of Los Angeles County (Claremont). The effect of the change is to provide authority for the State to regulate movement of hosts of Oriental fruit fly from, into, and within that area under quarantine to prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry. The proposed action does not differ from any existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3423. No

reimbursement is required for Section 3423 under Section 17561 of the Government Code because the agricultural commissioners of Los Angeles and San Bernardino counties requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative person or business could incur costs of approximately \$43 per year in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3423(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 5. COMMISSION ON TEACHER CREDENTIALING

Division VIII of Title 5 of the California Code of Regulations

Proposed Addition of Sections 80416, 80416.1, and 80416.2 of Title 5, California Code of Regulations, Pertaining to Single Subject Teaching Credentials in Science (Specialized) and in Foundational-Level Mathematics

NOTICE OF PROPOSED RULEMAKING

The California Commission on Teacher Credentialing proposes to adopt regulatory action described below after considering all comments, objections and recommendations regarding the proposed actions.

INFORMATIVE DIGEST

Summary of Existing Laws and Regulations

Education Code Section 44259 specifies the minimum requirements for the Single Subject Teaching Credential, including the subject matter requirement. Currently, there are no regulations that address subject matter knowledge in Science (Specialized) and Foundational-Level Mathematics because this is a new concept.

Policy Statement Overview

One of the requirements needed to obtain a Single Subject Teaching Credential is verification of subject matter competency. Currently there are sixteen subject matter areas: Agriculture, Art, Business, English, Foreign Languages, Home Economics, Health Science, Industrial and Technology Education, Mathematics, Music, Physical Education, Science: Biological Sciences, Science: Chemistry, Science: Geosciences, Science: Physics, and Social Science. The proposed addition of Sections 80416, 80416.1, and 80416.2 to the Title 5 Regulations would increase the number of subject matter areas to twenty-one by adding Foundational-Level Mathematics and four new areas in science: Biological Sciences (Specialized), Chemistry (Specialized), Physics (Specialized), and Geosciences (Specialized). The current mathematics and science authorizations will remain available to credential candidates.

The addition of the subject matter areas in Science (Specialized) and in Foundational-Level Mathematics for Single Subject Teaching Credentials is being proposed as a potential means of increasing the number of newly credentialed science and mathematics teachers for California public schools. The proposed Science (Specialized) authorization would allow instruction in a specific science area (biology, chemistry, physics, or geosciences) in California

public schools but would not authorize instruction in general or integrated science. The proposed Foundational-Level Mathematics authorization would permit the holder to teach the content areas taught to the vast majority of K–12 math students: general mathematics, algebra, geometry, probability and statistics, and consumer mathematics. It is anticipated that the adoption of these two proposed subject matter areas will attract knowledgeable and experienced individuals, including engineers, environmentalists and others, to investigate a second career in teaching.

Over the years, California has often experienced a need for credentialed teachers in mathematics and science. Recently, this has become much more apparent with the consistently low number of teacher candidates majoring in mathematics and science at California campuses and the growth of the K–12 student population. The proposed Title 5 regulations establishing the Single Subject Teaching Credentials in Science (Specialized) and in Foundational-Level Mathematics provides a partial solution to the under-supply of qualified teachers in these two areas. A disproportionate number of teachers in the fields of mathematics and science are employed based on emergency permits or waivers. In the 2000–2001 school year, there were approximately 16,700 mathematics teachers in California’s public schools. Nearly 14% (almost 2,200) were teaching with emergency permits or waivers. In stark contrast, only 704 teachers during that same year were issued Single Subject Teaching Credentials in mathematics based on a California institution recommendation or completion of a credential program outside of California. In that same year there were close to 13,300 teachers teaching science. Of those teachers, over 2,800 were teaching science with an emergency permit or waiver. In comparison, during 2000–2001, less than 1000 individuals received science certification through California institutional recommendations and out-of-state programs.

As part of the task of reviewing the new K–12 Student Academic Content Standards, the Commission charged its Subject Matter Advisory Panels in Science and Mathematics with exploring possible changes in the existing single subject credential structures that might encourage more individuals to obtain science and mathematics certification. The panel members, who are practicing science and mathematics teachers, faculty members and other California educators, proposed the addition of the Science (Specialized) and Foundational-Level Mathematics subject matter areas with the hope of attracting an untapped pool of candidates. Their proposals were made based on the provision that individuals seeking certification in these new areas would need to complete all other requirements for the Single Subject Teaching Credential,

including a baccalaureate degree, an appropriate teacher preparation program, the California Basic Educational Skills Test (CBEST), and personal and professional fitness verification.

The rationale and the benefits for the addition of these each sections are addressed below.

§ 80416. Subject Matter Knowledge for Single Subject Teaching Credentials in Science (Specialized) and Foundational-Level Mathematics:

The addition of this section establishes that, as with all other subject matter areas, the subject matter will be based on standards of program quality and effectiveness and aligned with the current K–12 student standards. This will guarantee that the high level of content quality expected of California teachers will be maintained.

§ 80416.1. Single Subject Teaching Credential in Science (Specialized)

The proposed Section 80416.1 establishes the specific science subject matter areas that will be available to Single Subject Teaching Credential candidates. Under this new structure, the specific sciences will be biological sciences, chemistry, physics, and geosciences. The section also stipulates that the authorization for these subject matter areas will be limited to the specific science area requested. Because of the holder’s specialized scientific knowledge, none of these science areas will authorize the individual to teach general or integrated science. The authorization is for service in grades preschool, kindergarten through twelfth, and in classes organized for adults. This grade range is consistent with that authorized by Single Subject Teaching Credentials in all other subject matter areas.

This proposed regulation also details three options that may be used to satisfy the subject matter competency. The first of these options is completion of a postbaccalaureate degree from a regionally accredited institution. This will need to be in either the requested science area or in a closely related area considered equivalent by the Commission. Under the second option, candidates may verify their subject matter competency in the specialized science by passing a Commission-approved examination. The third option allows a prospective teacher with a bachelor’s degree in the science requested and 30 semester units of postgraduate work in the same area, or closely related area, to meet the subject matter requirement for a Single Subject Teaching Credential.

Establishing this specialized science authorization would provide additional flexibility for those considering a career as a science teacher. These options are especially well suited to candidates who have already demonstrated their subject matter knowledge through advanced programs or training in a specific scientific

field and decide, as career-changers, to enter the teaching profession. Additionally, this proposal will have the potential to increase the number of science teachers and provide staffing options for districts and schools who currently have difficulty finding credentialed teachers. This will be especially helpful for district recruiters who are seeking teachers for advanced and Advanced Placement (AP) science courses to replace the baby-boomer population of teachers who will soon be retiring.

§ 80416.2. Single Subject Teaching Credential in Foundational-Level Mathematics

This proposed section would allow Single Subject Teaching Credential candidates to verify subject matter competence in the area of Foundational-Level Mathematics. These candidates would have the option of satisfying competency in this subject matter area either by completing a Commission-approved subject matter program or by passing an appropriate Commission-approved subject matter examination. The content knowledge verified by either of these two options, as stipulated in the proposed § 80416, is derived from and aligned with the current K–12 student standards, focusing on the fields of mathematics to be authorized by this subject matter area. The knowledge needed in these specific fields of mathematics is equivalent in depth and rigor to that required in these fields for the current Mathematics subject matter area. Because of this, individuals verifying competency in Foundational-Level Mathematics will be fully prepared in these specific fields. Unlike the current Mathematics subject matter area and as reflected in the authorization for this proposal, the individual seeking certification in Foundational-Level Mathematics will not be required to verify in-depth knowledge of advanced mathematics nor will they be authorized to teach in these fields.

The subject matter area in Foundational-Level Mathematics is proposed as a measure to help alleviate some of the teacher shortage in mathematics by attracting more individuals into this area. When the Subject Matter Advisory Panel in Mathematics initially investigated the difficulties facing California school districts, the points that impacted their decision to recommend a Foundational-Level Mathematics authorization were the high percentage of teachers functioning on emergency permits and the low number of candidates qualifying for the Single Subject Teaching Credential in Mathematics. They also considered the rising need for mathematics teachers, not only to replace those leaving through attrition but also to staff new classes resulting from increases in the student population and class-size reduction. Another issue that they considered was the fields of mathematics predominantly taught to California students. In the

1999–2000 school year, more than 97% of high school mathematics students were enrolled in classes that covered fields in mathematics that were below calculus or other advanced level coursework. When the panel considered a two-tiered mathematics authorization, they, along with the Commission, sought further information regarding the likelihood of any benefits that this credential structure might have. Based on their advice, a study was conducted, surveying district human resource directors, middle and high school principals, middle and high school mathematics teachers, mathematics faculty, and mathematics education faculty at institutions with approved mathematics programs. The majority of responses supported this concept and affirmed the respondents' belief that a two-tiered mathematics credential would increase the potential pool of mathematics teachers available for the basic mathematics courses.

This proposed section of the regulation would specify the fields in mathematics that the holder of a Single Subject Teaching Credential in Foundational-Level Mathematics would be authorized to teach: general mathematics, algebra, geometry, probability and statistics, and consumer mathematics. Individuals will not be authorized to teach any of these fields if students receive advanced placement credit for the course or to teach courses in any more advanced fields of mathematics. Additionally, as with the Science (Specialized) authorization, this proposed regulation re-emphasizes that holders of the Foundational-Level Mathematics authorization may teach this in any grades in which the subject or subjects will be taught, to include preschool, grades kindergarten, grades one through twelve, inclusive, and classes organized primarily for adults.

REPORTS RELIED UPON IN
PREPARING REGULATIONS

The following reports were relied upon in preparing the proposed Title 5 additions:

- 1998–99 Annual Report: Emergency Permits and Credential Waivers, Commission on Teacher Credentialing
- 2000–01 Annual Report: Emergency Permits and Credential Waivers, Commission on Teacher Credentialing
- Characteristics and Performance of Advanced Placement Classes in California, June 2001
- Enrollment in California Public Schools, 1993–2002
- Estimated Number of Teacher Hires During 2002–03 by Subject Area, October 2001
- Mathematics Framework for California Public Schools, 1999 (This includes the Mathematics Content Standards for California Public Schools)

- Preparation of Secondary School Mathematics Teachers in the California State University, March 2002
- Proposed Exploration for the Restructuring of the Single Subject Credential for Mathematics Teachers, 2001
- Science Content Standards for California Public Schools, 1998
- Statewide Course Enrollment and Staffing Data, 1999–2000
- Statewide Course Enrollment and Staffing Data, 2000–2001
- Teacher Supply in California: A Report to the Legislature (Fourth Annual Report, 2000–01)
- Teachers Meeting Standards for Professional Certification in California: Second Annual Report 1998–99
- Teachers Meeting Standards for Professional Certification in California: Third Annual Report, 1999–00

DOCUMENTS INCORPORATED BY REFERENCE

None.

AUTHORITY AND REFERENCE

Education Code Section 44225(q) authorizes the Commission to adopt the proposed actions, which will implement, interpret or make specific Section 44259 of the Education Code and govern the procedures of the Commission.

DISCLOSURES REGARDING THE PROPOSED ACTIONS

The Commission has made the following initial determinations.

Cost or Savings to Any State Agency: None.

Mandated Costs to Local Agencies or School Districts: These proposed regulations will not impose a mandate on local agencies or school districts, or a mandate which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Other Non-Discretionary Costs or Savings Imposed Upon Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons: If individuals have not already satisfied the subject matter competency based on the coursework option, they may satisfy the examination option. The cost for this may possibly reach \$150.

Cost Impact on Representative Businesses: None. The Commission is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed regulation.

Assessment Regarding the Creation or Elimination of Jobs in California: The Commission has made an assessment that the proposed addition to the regulations would not (1) create nor eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

Significant, Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete with Businesses in Other States: None. This proposed addition affects only the Commission and prospective teachers who are not businesses.

Effect on Small Businesses: None. This proposed addition affects only the Commission and prospective teachers who are not small businesses.

Significant Effect on Housing Costs: None.

ALTERNATIVES CONSIDERED

The Commission has reviewed reasonable alternatives to the current science and mathematics authorizations for the Single Subject Teaching Credential. For the proposed science (specialized) subject matter area, the Commission accepted the recommendation from the Subject Matter Advisory Panel in Science and incorporated all three alternatives into the proposed regulations as options for satisfying this requirement.

For the proposed foundational-level mathematics subject matter area, the Subject Matter Advisory Panel in Mathematics made much broader recommendations. The recommendations, and the rationale for not pursuing them, are the following:

- *Mathematics Specialist:* This proposed alternative would limit the authorization of the single subject mathematics credential to teach mathematics courses up to a designated level, such as second-year algebra. Individuals interested in teaching advanced mathematics courses would complete a secondary teacher education program and verify the current subject matter competence through coursework or examination, resulting in the mathematics specialist instruction credential. This alternative was considered, but because the specialist credentials generally require a year of study beyond the teaching credential and allow individuals to act as curriculum specialists in the field, the Commission thought that this would be an inappropriate venue for a mathematics teaching credential.
- *Advanced Supplementary Authorization:* This alternative proposed the introduction of a new advanced supplementary authorization in mathematics that falls between the current supplementary authorization and the single subject authorization. This alternative was not pursued because the individual would also need a single subject teaching credential

with a subject matter area in something other than mathematics. This would not entice highly knowledgeable individuals from other professions, such as engineers and statisticians, into teaching.

- *Maintain the Current Mathematics Structure:* The panel's third alternative was to retain the current credentialing structure. By doing this, California's increasing shortage of mathematics teacher, which instigated this proposed regulatory action, would remain.

Before approving any proposed changes to the regulations, the Commission must determine that no alternative considered will be more effective in carrying out the purpose for which the action is proposed or will be as effective and less burdensome to affected private persons or small businesses than the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed actions. The written comment period closes at 5:00 p.m. on December 4, 2002. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 327-3165, mail it to the California Commission on Teacher Credentialing, Attention: Yvonne Novelli, 1900 Capitol Avenue, Sacramento, CA 95814, or submit an e-mail at <ynovelli@ctc.ca.gov>.

Any written comments received 14 days prior to the public hearing will be reproduced by the Commission's staff for each Commissioner as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

PUBLIC HEARING

Comments on the proposed actions will also be taken at a public hearing to be held:

December 5, 2002

10:00 a.m.

California Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, California 95814

MODIFICATION OF PROPOSED ACTIONS

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final

rulemaking package, after the public hearing. When it is available, it will be placed on the Commission's web-site at <<http://www.ctc.ca.gov>> or you may obtain a copy by contacting Yvonne Novelli at (916) 323-6512.

CONTACT PERSON/FURTHER INFORMATION

Inquiries concerning the proposed action may be directed to Yvonne Novelli at (916) 323-6512 or to Dr. Philip A. Fitch at (916) 324-3054. They will also respond to questions concerning the substance of the proposed regulations. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's web-site at <<http://www.ctc.ca.gov>>. In addition, all the information on which this proposal is based is available at the Commission office for inspection and copying.

TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS

CALIFORNIA APPRENTICESHIP COUNCIL

NOTICE OF PROPOSED RULEMAKING

The California Apprenticeship Council ("Council") proposes to repeal existing California Code of Regulations, title 8, section 232 and to adopt regulations setting forth the procedures for the review of determinations of civil penalty or debarment under Labor Code section 1777.7 for violations of Labor Code Section 1777.5's requirements for the employment of apprentices on public works. The Council proposes to adopt these regulations as section 232.01-232.70 of Title 8 of the California Code of Regulations. The Council proposes to take this action after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARINGS, WRITTEN COMMENT PERIOD, AGENCY CONTACTS

Public Hearings:

Public Hearings will be held on the proposed regulations as follows:

November 22, 2002 from 10:00 a.m. to 12:00 noon.
Hiram Johnson State Building
Basement Auditorium
455 Golden Gate Avenue
San Francisco, California.

December 6, 2002 from 10:30 a.m. to 12:30 p.m.
CIC Room, First Floor
Associated General Contractors of America
6212 Ferris Square
San Diego, CA

At the hearings, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Council requests, but does not require, persons who make oral comments also to submit a written copy of their testimony.

Written Comment Period:

Any person or authorized representative may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on December 9, 2002 at 5:00 p.m., and the Council will only consider comments received by that deadline. Written comments may be submitted in person at one of the hearings or by letter, facsimile or e-mail as follows:

Diane Ravnik
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Facsimile: (415) 703-5447
E-mail: dravnik@hq.dir.ca.gov

or

Bryan Goyette
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Facsimile: (415) 703-5447
E-mail: bgoyette@hq.dir.ca.gov

Agency Contacts:

Inquiries of a substantive or general nature concerning the proposed regulations may be directed to:

Diane Ravnik
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Facsimile: (415) 703-5447
E-mail: dravnik@hq.dir.ca.gov

or

Bryan Goyette
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Facsimile: (415) 703-5447
E-mail: bgoyette@hq.dir.ca.gov

AUTHORITY AND REFERENCE

Labor Code section 3071 authorizes the Council to adopt regulations which establish standards for minimum wages, maximum hours and working conditions for apprentice agreements. Labor Code section 1777.7(f) requires the Council to adopt regulations implementing Labor Code sections 1777.5 and 1777.7.

**INFORMATIVE DIGEST / POLICY
STATEMENT OVERVIEW****Overview:**

Section 1777.5 requires that apprentices employed on public works shall be paid the prevailing rate of per diem wages for apprentices and shall only be employed in the trade for which the apprentice is registered. Among other things, Section 1777.5 also requires contractors on public works to employ apprentices at a specified ratio (unless the contractor qualifies for an exemption to the ratio), to provide specified information to applicable apprenticeship programs that can supply apprentices, and to make contributions to the Council in the same amount that the Director of Industrial Relations ("Director") has determined is the prevailing amount of apprenticeship training contributions in the area of the public works site.

Section 1777.7 imposes on a contractor who knowingly violates Section 1777.5 a civil penalty of no more than \$100 for each day of noncompliance. A second or subsequent violation of Section 1777.5 within a three year period is subject to a penalty of no more than \$300 for each day of noncompliance. Section 1777.7 also provides that, if it is determined that a contractor has knowingly violated section 1777.5, the contractor may be denied the right to bid on a public works contract for a period of up to one year for a first violation and for a period of up to three years for a second or subsequent violation.

Section 1777.7 also provides that within specified time limits an affected contractor may request a hearing to review of a penalty or debarment. The hearing shall be heard by a person designated by the Administrator possessing the qualifications of an administrative law judge pursuant to Government Code section 11502. A contractor seeking review of a decision by the Administrator following a hearing may do so by a petition for writ of mandate pursuant to Code of Civil Procedure section 1094.5.

Section 1777.7 (g) provides that the interpretation and enforcement of Section 1777.5 and Section 1777.7 shall be in accordance with regulations promulgated by the Council. The purpose of this rulemaking is to carry out that mandate and set forth appropriate procedures that give effect to specific statutory requirements and afford due process to the parties involved in these proceedings.

By these proposed regulations, the Council intends to provide a complete set of rules governing public works determinations from issuance of the determination through the preparation of a record following the decision of the Administrator. Some repetition of statutory language was necessary to make these rules the most coherent and accessible guide for parties who

become involved in these cases. The Council anticipates that some participants in these cases will be non-lawyers who will find it easier to follow regulations that set out the procedures completely rather than having to go back and forth between the statute and rules.

Consideration was given to the alternatives of either incorporating these hearings into one of the Council's preexisting administrative hearing systems or just adopting the hearing rules of the Administrative Procedure Act (found at Government Code section 11500 and following) for these proceedings. However, in light of the peculiar requirements of Section 1777.5 and section 1777.7, particularly the short time limits for commencing the hearing (90 days after receipt of a request for review) and making a decision (45 days after the hearing), neither alternative seemed feasible.

These regulations are modeled on regulations recently promulgated by the Department of Industrial Relations relating to prevailing wage determinations (CCR, title 8, subchapter 4, sections 187.01–187.70). For convenience, the Council's regulations have the same numbering as the Department's regulations.

There are no comparable federal regulations or statutes.

Proposed Regulations:

The Council proposes to repeal California Code of Regulations Chapter 8, section 232 and to adopt California Code of Regulations, Chapter 8, sections 232.01–232.70. Through these proposals, the Council intends to provide a complete set of rules governing hearings on determinations of violations of Section 1777.5, prevailing wage appeals, from issuance of the Assessment or Notice of Withholding through the preparation of a record following the Final Decision of the Administrator of Apprenticeship. Some repetition of statutory language was necessary to make these rules the most coherent and accessible guide for parties who become involved in these cases. The Council anticipates that some participants in these cases will be non-lawyers who will find it easier to follow regulations that set out the procedures completely rather than having to go back and forth between the statute and rules.

Consideration was given to the alternatives of either incorporating these hearings into one of the Council's preexisting administrative hearing systems or just adopting the hearing rules of the Administrative Procedure Act (found at Government Code section 11500 and following) for these proceedings. However, because of the peculiar requirements of Sections 1777.5 and 1777.7, including the short time frames for hearings and decisions with the due process requirements attendant to substantial evidence review, neither approach seemed feasible.

The primary source of the language used in these regulations is regulations recently promulgated by the Department of Industrial Relations relating to prevailing wage determinations (CCR, title 8, subchapter 4, sections 187.01–187.70). Other sources include Sections 1777.5 and 1777.7, the Administration Adjudication Bill of Rights (Government Code sections 11425.10 and following) and other parts of the Administrative Procedure Act, relevant cited provisions of the Code of Civil Procedure and the Evidence Code, and the rules governing hearings and appeals before the Occupational Health & Safety Appeals Board (8 Cal. Code Regs. sections 345 and following and the California Unemployment Insurance Appeals Board (22 Cal. Code Regs. sections 5000 and following).

A. General

Sections 232.01–232.12 set forth rules of general application throughout the proceedings.

Section 232.01 is an introductory provision setting forth the scope and application of the rules.

Section 232.02 sets forth definitions of terms used throughout the rules. Definitions were provided and in some cases terminology created to address two particular concerns: (1) providing shorthand terms such as "Determination" in order to avoid repeating cumbersome statutory language throughout the rules; and (2) providing "term of art" meanings to avoid definitional disputes based on other statutory or common usage meanings.

Section 232.03 sets forth rules for the computation of time, including extensions of time to respond or act when documents are served by mail. This is not a rule on proper methods of service, which is set forth later in Section 232.10.

Section 232.04 sets forth the standards governing the appointment of an impartial Hearing Officer in a given case. Subpart (b) specifies that Hearing Officers will be appointed from among the Director of Industrial Relations' own legal staff as has been customary in other cases in which the Director has the responsibility to conduct an administrative hearing. However, if no one is available from the Director's legal staff, the rule (and statute) provide that the Director may appoint a lawyer or administrative law judge from another one of the Department's divisions, other than the Division Apprenticeship Standards, which will usually be one of the parties. Subpart (c) incorporates the Government Code sections which set forth the minimum qualifications for serving as an administrative law judge (expressly required by Labor Code section 1742(b)) and the standards that would preclude an individual from hearing a particular matter (implied from the statutory requirement that the hearing officer be "impartial"). Through subpart (d)

the Council intends to delegate the authority to appoint hearing officers in all cases to the Chief Counsel of the Office of the Director.

Section 232.05 sets forth the authority of hearing officers, which includes all adjudicative authority normally possessed by administrative law judges except that the hearing officer can prepare only a recommended decision, with final decision-making authority reserved to the Director (as provided in the statute). Subpart (b) is intended to clarify that the Director has no review or supervisory authority over the actions of the appointed Hearing Officer other than through the issuance or reconsideration of a final decision.

Section 232.06 specifies that hearing case records are available to the public as public records.

Section 232.07 sets forth the rules governing ex parte communications with the Hearing Officer or the Administrator. The Administrative Adjudication Bill of Rights (Government Code sections 11425.10 and following) requires certain standards, and this proposal incorporates those standards by reference. Subpart (g) addresses a particular concern regarding ex parte communications with the Administrator. The Administrator inevitably will hear about and discuss major labor and employment law issues with the public and with other parties who may participate in or be affected by these cases. Subpart (g) is designed to protect the integrity of the Administrator's role as decision-maker.

Section 232.08 specifies how non-parties may intervene or participate in a proceeding. Bonding companies and sureties may intervene as a matter of right if they do so promptly. Two options are proposed for intervention by another person. The employee(s), labor union or joint management committee or apprenticeship program who filed the complaint that led to the determination may intervene provided that they do so promptly and there is no good cause to deny their intervention. Other interested parties may intervene upon a showing of good cause. It should be noted that Government Code section 11440.50 suggests but does not require an agency to adopt a rule for permissive intervention.

Section 232.09 permits a party to be represented by a non-lawyer, consistent with the norm for administrative hearings. It also provides that when there is an authorized representative, service on that representative will control the running of deadlines, whether or not copies are also sent to the party. Subpart (d) requires parties and representatives to keep the hearing officer and other parties informed of their current address and telephone number.

Section 232.10 sets forth the rules for serving documents and providing a Proof of Service. Subpart (e) provides that the Hearing Officer will maintain an official address record of parties and participants.

Section 232.11 permits fax and e-mail service and filing as allowed by statute and authorized by the hearing officer on a case by case basis. The intent is to encourage the use of such technologies provided they are not used in an abusive fashion or as a club against parties with limited resources.

Section 232.12 clarifies that Article 6 of the Administrative Adjudication Bill of Rights applies to these proceedings (as required by Government Code section 11425.10(b)). It specifies that ex parte communications between the Hearing Officer and the Director are permitted under Government Code section 11430.80(b). It also specifies that the formal hearing procedures of the Administrative Procedure Act (Government Code sections 11500 and following) will *not* apply to these proceedings except insofar as specific parts of those procedures have been incorporated into a given rule.

B. Determinations and Requests For Review

Sections 232.20–232.28 govern the issuance of the Determination and the filing of the Request for Review.

Section 232.20 reiterates the requirements for serving the Determination and clarifies what information must be included in the Determination.

Section 232.21 sets forth the opportunity to have an early settlement meeting with the Chief, DAS. Subpart (c) clarifies that the parties are not precluded from having later settlement discussions. Subpart (d) specifies that the early settlement procedures, whether observed or not observed, do not extend the time for filing a Request for Review.

Section 232.22 sets forth the time limits and requirements for filing of Request for Review, which is the appeal document in these proceedings. In accordance with the statute, the Request for Review must be served on the Administrator, but the rule encourages sending a courtesy copy to the Director's Legal Unit in order to facilitate prompt scheduling of the hearing. Subpart (e) requires the Request for Review to include a statement of the basis for the Request, and it permits the Hearing Officer to require a further specification of the basis for seeking review. The intent of this subpart is also to facilitate prompt scheduling by giving the Hearing Officer an early understanding of the potential issues.

Section 232.23 specifies where the Chief, DAS must transmit the Request for Review and other specified documents to commence the review proceeding.

Section 232.24 sets forth and explains the Chief, DAS's statutory duty to disclose the evidence it intends to use at the hearing. Subpart (d) precludes the Chief DAS from using evidence not disclosed within the statutory deadline, but also permits an affected contractor or subcontractor to extend the deadline. Subpart (e) excepts from this preclusion rule any after-acquired evidence that is promptly disclosed as well as evidence used solely to rebut new or collateral claims raised by another party.

Section 232.25 permits an affected contractor or subcontractor to withdraw a Request for Review, and it also sets forth procedures and time limits for seeking to reinstate a withdrawn Request.

Section 232.26 governs the authority of the Chief, DAS to dismiss or amend a Determination. Upon notice, which is intended to allow for objections and provide a cooling off period, the Chief, DAS will essentially have a near-automatic right to dismiss or to amend the Determination downward. A motion to amend a Determination upward will require a showing of good cause based upon new information.

Section 232.27 will permit cases to be disposed of early without the need for a hearing on the merits where it appears that either the Determination were not served or filed within the statutory time limits. The Hearing Officer will have discretion to decide whether or not to use this procedure as well as discretion not to recommend an early disposition when the evidence is uncertain. If the evidence shows that the Determination or Request was untimely, the Hearing Officer will recommend that the Administrator issue a final decision dismissing the Determination or Request. That decision will then be subject to reconsideration or judicial review in the same manner as any other final decision by the Administrator.

Section 232.28 specifies that a Determination that has not been appealed through the filing of a timely Request for Review is a "final order" within the meaning of the statute. Subpart (b) clarifies the duty of awarding bodies to retain and not disburse withheld amounts when an appeal remains pending as to at least one affected contractor or subcontractor.

Section 232.29 is left blank intentionally so that these regulations will have the same numbering as the Department of Industrial Relations' prevailing wage determinations under Labor Code section 1720 (CCR, title 8, subchapter 4, sections 187.01–187.70).

C. Prehearing Procedures

Sections 232.30–232.37 set forth prehearing procedures.

Section 232.30 sets forth the procedure for the scheduling of hearings and for continuances. Section 232.30 also provides that the time limits for hearings

and seeking review are tolled under certain specified circumstances, including court orders and events beyond the Administrator's control.

Section 232.31 permits the Hearing Officer to hold a prehearing conference to facilitate preparation of the case for hearing.

Section 232.32 permits multiple cases to be consolidated for hearing and decision when appropriate, and it also authorizes consolidated matters to be severed.

Section 232.33 sets forth standards for prehearing motions, including required information and cut-off dates for motions that must be resolved in advance of the hearing. The intent is that such motions would be disposed of on paper without oral hearings, unless an oral hearing is requested and the matter involves a fundamental right, such as a compelled waiver of a privilege. Because of the short deadline for starting a hearing on the merits, the procedure is not intended for use for dispositive (*e.g.* summary adjudication) motions other than a timeliness challenge handled under Section 232.27 above.

Section 232.34 provides for the introduction of testimony by affidavit or declaration and for the treatment of that testimony as direct evidence (*i.e.* not hearsay) unless a party has requested an opportunity to cross-examine the witness. This procedure is authorized by the Administrative Procedure Act (Government Code section 11514) and is also a feature of judicial arbitration (California Rule of Court 1613) and economic litigation for limited civil cases (Code of Civil Procedure section 98). If another party requests the opportunity to cross-examine, this proposal places the burden of producing the witness on the party who offered the written testimony, which is the approach followed in Rule of Court 1613. If the witness cannot be produced for cross-examination, the written testimony will still be admissible but will be treated as hearsay evidence.

Section 232.35 provides that subpoenas and subpoenas duces tecum may be issued by a Hearing Officer or by an attorney for a party (consistent with an attorney's authority in civil cases and in adjudications under the Administrative Procedure Act). A subpoena duces tecum may require documents to be produced in advance of the hearing.

Section 232.36 sets forth a separate rule for compelling another party to attend and testify by issuing a Notice to Appear to that party's attorney in lieu of a subpoena.

Section 232.37 precludes depositions in most cases except when needed to obtain testimony from a party who cannot appear at the hearing. The statute contemplates that the Chief, DAS will have done a full investigation prior to issuing a Determination and that it will turn over its evidence to the party who files a

Request for Review, similar to what occurs in criminal cases. This appears to be the only discovery contemplated by the statute, and a rule that would permit other investigative discovery appears to be incompatible with the statutory 90 day deadline for starting the hearing.

D. Rules Governing The Hearing

Section 232.40 provides for giving notice of the person appointed to serve as Hearing Officer as well as procedures and a time limit for objecting to that person's appointment.

Section 232.41 reiterates the 90 day deadline for commencing the hearing, and sets the county where the Hearing Officer is employed (San Francisco, Sacramento, or Los Angeles) as the default venue for the hearing. The parties may have the venue changed to another location that is more convenient to them but will have the burden to arrange for the availability of a suitable hearing site in that venue.

Section 232.42 sets forth customary standards for conducting hearings that are open to the public while giving the Hearing Officer the authority to protect information that is properly deemed confidential and to exclude witnesses prior to their testimony.

Section 232.43 sets forth customary standards for the conduct of hearings by a presiding officer in an administrative case.

Section 232.44 states the customary rule that administrative hearings are not bound by formal rules of evidence and that generally all relevant evidence is admissible unless subject to exclusion by reason of privilege or because unduly cumulative. Subpart (d) sets forth the customary standard governing the admissibility and weight accorded hearsay evidence in administrative cases.

Section 232.45 sets forth the authority of the Hearing Officer to take official notice (similar to judicial notice) of certain facts and information, including technical facts within the special expertise of the Department of Industrial Relations.

Section 232.46 sets forth the Hearing Officer's authority to act when a party fails to appear. Subpart (b) provides a procedure and deadline for a party to seek relief from the consequences of its failure to appear.

Section 232.47 sets forth the authority and procedure through which the Hearing Officer may certify a person for being in contempt or sanction a party for bad faith or frivolous tactics. This proposal follows the standards for administrative hearings found in the Administrative Procedure Act (Government Code sections 11455.10–11455.30).

Section 232.48 sets forth standards and procedures for obtaining the services of an interpreter, consistent with the requirements of the Administrative Procedure Act.

Section 232.49 provides that the Hearing Officer and Director will maintain and control the official Hearing Record and that the proceedings generally will be recorded by audiotape unless the Hearing Officer agrees to a different method. A parties may request a court reporter or other means for recording testimony but will then have the burden of procuring and paying for the reporter or other means.

Section 232.50 sets forth the respective burdens of the parties to come forward with evidence and then to persuade the decision-maker. The Director notes that the statute imposes differing burdens for certain findings and determinations.

Section 232.51 is left blank intentionally so that these regulations will have the same numbering as the Department of Industrial Relations' prevailing wage determinations under Labor Code section 1720 (CCR, title 8, subchapter 4, sections 187.01–187.70).

Section 232.52 gives parties the right to file briefs prior to the hearing and to make a closing argument at the conclusion of the hearing. Subparts (b) and (c) give the Hearing Officer discretion to determine what post-hearing submissions will be permitted and include the option of drafting proposed findings.

Section 232.53 specifies the time when the hearing is deemed concluded for purposes of the 45 day deadline for the Administrator to issue a decision.

E. Rules Governing the Decision of the Administrator

Section 232.60 sets forth the statutory requirements for the contents and service of the Decision, including the statute's requirement that the Decision be served by first class mail pursuant to Code of Civil Procedure section 1013.

Section 232.61 sets forth the very limited time frame allowed by statute for the Administrator to reconsider a Decision. Subpart (d) notes that a Request for Reconsideration is neither a prerequisite for nor does it extend the time limits for seeking court review.

Section 232.62 specifies that the Decision issued under Rule 60 is a final decision for purposes of seeking court review unless the Administrator has issued a modified decision within the 15 days allowed under Rule 61. Subpart (c) provides that the deadline for seeking court review is determined from the date of service of the Decision and *includes* any extension of time (for service by mail) provided under Code of Civil Procedure section 1013.

Section 232.63 sets forth the obligation of a party seeking court review to designate and pay for preparation of the hearing record. There is an exception for parties granted in forma pauperis status, consistent with the requirements of the Code of Civil Procedure section 1094.5(a).

F. Statute of Limitations

Section 232.70 provides that a determination shall be issued and served within three years after the date of accrual.

Comparable Statutes and Regulations:

These proposals have been drafted to follow the requirements of Labor Code sections 1777.5 and 1777.7 1742 as well as provisions of California's Administrative Procedure Act that govern administrative adjudications before state agencies. These regulations are modeled on regulations recently promulgated by the Department of Industrial Relations relating to prevailing wage determinations (CCR, title 8, subchapter 4, sections 187.01–187.70). For convenience, the Council's regulations have the same numbering as the Department's regulations.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The Council has made the following initial determinations with respect to these proposals. The Council notes that these proposals implement Labor Code section 1777.7(f)'s mandate to adopt regulations setting forth hearing procedures concerning determinations of violations of Labor Code Section 1777.5, and these proposals impose no significant mandates, costs, or savings that are different or distinct from what the Legislature has required by statute. The Council invites further comment on these specific impacts.

Mandates on Local Agencies or School Districts:

The proposals do not impose mandates on local agencies or school districts.

Costs or Savings to State Agencies; Reimbursable Costs Imposed on Local Agencies or School Districts; other nondiscretionary costs or savings imposed on local agencies; and costs or savings in federal funding to the state:

The statute imposes increased costs on the Office of the Director of the Department of Industrial Relations, and these proposals specifically impose those costs on the Director's Legal Unit which will supply hearing officers and administer the hearing procedures.

The proposals do not involve any costs or savings in federal funding to the state.

Initial Determination of Economic Impact on Business:

The Council has made an initial determination that these proposals will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The statute itself impacts only businesses that choose to enter into public works contracts, and it is neutral in its treatment

of California businesses as compared to businesses from other states. The change from a system of court review to an administrative hearing procedure may result in some savings for businesses who appeal determinations, simply because administrative hearings are often cheaper than court litigation.

Known Cost Impacts on Representative Private Person or Business:

The Council is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with these proposals.

Creation, Elimination, or Expansion of Jobs or Businesses (Results of Assessment under Government Code section 11346.3(b)):

The Council has made initial determinations that (1) these proposals will not affect the creation or elimination of jobs within the State of California; (2) these proposals will not affect the creation of new businesses or the elimination of existing businesses within the State of California; and (3) these proposals will not affect the expansion of businesses currently doing business within the State of California.

Reporting Requirements (Finding under Government Code section 11346.3(c)):

These proposals impose no reporting requirements on businesses.

Effect on Housing Costs:

These proposals have no effect on housing costs.

Effect on Small Business:

Small businesses that participate in public works projects may be affected by these proposals. These proposals implement statutory changes that are designed to streamline the process for appealing determinations of violations of Labor Code section 1777.5 by requiring administrative hearings rather than court litigation. Since administrative hearings are often more cost efficient for participants than court litigation, these changes may reduce costs for small businesses that appeal such determinations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Council must determine that no reasonable alternative considered by the Council or that otherwise has been identified and brought to the Council's attention would either be more effective in carrying out the purpose for which the action is proposed or be as effective as the proposed action and less burdensome to affected private persons. Labor Code section 1777.7(f) requires the Council to adopt hearing procedures, and as noted in Informative Digest above, the adoption of a new set of hearing regulations

appears to be a more feasible approach for the particular requirements of this statute than attempting to incorporate preexisting schemes. The Council invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**AVAILABILITY OF INFORMATION
PERTAINING TO THE PROPOSED ACTION**

The Council will have the rulemaking file available for inspection and copying throughout the rulemaking process. Initially the file will consist of this notice, the initial statement of reasons, and the text of the proposed regulations. The text of the file can be obtained from the contact persons identified above.

Website:

Rulemaking records, including the text of the proposed regulations may be accessed through the Department's Internet website at www.dir.ca.gov.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After holding the hearings and considering all timely and relevant comments received, the Council may adopt the proposed regulations substantially as described in this notice. If the Council makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be made available to the public for at least 15 days before the Council adopts the regulations as revised. Any such modifications will also be posted on the website. Please send requests for copies of any modified regulations to the attention of the contact persons listed above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT
OF REASONS AND THE RULEMAKING FILE**

Upon completion, the Final Statement of Reasons will be available and the entire rulemaking file may be obtained from contact persons named in this notice.

AUTHORITY AND REFERENCE

The Director's authority to adopt these regulations is found in Labor Code sections 3071 (general authority to regulate apprenticeship) and 1777.7(f) (mandate to adopt regulations implementing Labor Code section 1777.5).

These proposals implement, interpret, and make specific the statutory requirements relating to the review of determinations of violations of Labor Code section 1777.5.

Authority: Labor Code sections 3071 and 1777.7.

Reference: Labor Code sections 1777.5 and 1777.7.

**TITLE 8. DEPARTMENT
OF INDUSTRIAL RELATIONS**

CALIFORNIA APPRENTICESHIP COUNCIL

**SUPPLEMENT TO NOTICE OF
PROPOSED ACTION**

The rulemaking described in the above Notice of Proposed Action (Z02-1008-13) is identical, with the exception of dates relating to the public comment period and public hearings, to the Council's earlier proposed rulemaking published as OAL Notice Z02-0903-05 on September 13, 2002 in the California Regulatory Notice Register, No. 37-Z and subsequently withdrawn pursuant to Government Code section 11347.

The Notice of Proposed Action above is supplemented by the following language: Reimbursable Costs Imposed on Local Agencies or School Districts; other nondiscretionary costs or savings imposed on local agencies:

The proposed regulations do not impose reimbursable costs on local agencies or school districts, do not impose other nondiscretionary costs or savings on local agencies, and do not involve costs or savings in federal funding to the state.

**TITLE 10. DEPARTMENT
OF INSURANCE**

INSURANCE COMMISSIONER

NOTICE OF PROPOSED RULEMAKING

The Commissioner of Insurance proposes to adopt the proposed regulations described below after considering all public comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The Commissioner has not scheduled a public hearing on this proposed action. A public hearing will be held, however, if the contact person identified below receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to close of the written comment period. The sole purpose of such a hearing would be to address the merits of the proposed regulations.

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of section 1758.81, of the California Insurance Code. Section 2, A.B.62 (Stats.1999, c.618) provides the Commissioner of Insurance with authority for this rulemaking.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Commissioner. The written comment period closes at 5:00 p.m., December 2, 2002. The Commissioner will consider only comments received at Department of Insurance offices by that time. Send comments to the contact person listed below.

CONTACT PERSON

All comments and/or inquiries, written or oral, concerning the proposed regulations and requests for copies of the proposed text, may be directed to:

Substance:

James Stanton Bair III
Staff Counsel
Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, California 94105
Telephone 415.538.4116
FAX 415.904.5490

Backup:

Karen Switzer
320 Capitol Mall, 1st Floor
Sacramento, CA 95814
916-492-3014

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided that they are sent to the following e-mail address: bairs@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of the contact person at the fax number listed above. Comments sent to other email addresses or other facsimile numbers will not be accepted. Comments sent by email or facsimile are subject to the deadline set forth above for written comments.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Insurance Code section 1758.81 (Assembly Bill 62, Chapter 618, Statutes of 1999) established a procedure for applying to the Commissioner for a license as a Rental Car Agent. Pursuant to 1758.81

subdivision (a)(3) a fee is authorized to defray the actual costs of processing the application. This section also provides for a renewal fee. Pursuant to the statutory grant of authority establishing such a fee, Title 10 of the California Code of Regulations Section 2130.3 was adopted. Section 2130.3 set a license application fee of \$340; however, the regulation as originally adopted did not contain any reference to the amount of a license renewal fee. Without the proposed amendment, the Department of Insurance does not have regulatory authority to levy a renewal fee. The proposed regulatory amendment encompassed by this notice implements and interprets the express statutory language by designating a license renewal fee of \$340. As a result of this amendment the regulation hereby noticed will remedy the earlier omission by fully implementing, interpreting, and making specific the provisions of the law.

DISCLOSURES REGARDING THE EFFECT OF THE PROPOSED ACTION

The Commissioner has made the following initial determinations:

Mandate on local agencies and school districts: *None*

Cost or savings to any State agency: *None*

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: *None*

Other non-discretionary costs or savings imposed upon local agencies: *None*

Cost or savings in Federal funding to the State: *None*

Cost impacts on representative private persons or business: *The only cost impact the Department is aware of is the obvious cost of the license renewal itself which a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.*

Significant statewide adverse economic impact directly affecting business, including the ability of California Businesses to compete with businesses in other States: *The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.*

Assessment: *The proposed regulations will not eliminate jobs in California. It is not likely that the regulations will create new businesses. The proposed regulations will not eliminate existing businesses. The proposed regulation will not affect the expansion of businesses currently doing business within California.*

Significant effect on housing costs: *None*

SMALL BUSINESS DETERMINATION

The Commissioner has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code Section 11346.5(a)(13), the Commissioner must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose of the proposed regulations, and that no alternative would be as effective or less burdensome to private persons or businesses directly affected than these regulations.

The Commissioner invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

FINAL STATEMENT OF REASONS

When available, a copy of the Final Statement of Reasons can be obtained on the Department's Web site at www.insurance.ca.gov; or for those without Web access, from the contact person at the fax number listed.

WEB ACCESS

A copy of this Notice, the Initial Statement of Reasons, and the Text of the proposed regulations can be obtained on the Department's Web site at www.insurance.ca.gov; or for those without Web access, from the contact person at the fax number listed.

AVAILABILITY OF RULEMAKING FILE

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above San Francisco address. As of the date of publication in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

If modifications are made to the proposed text of the regulations, the modified text, with changes indicated, will be made available to the public for at least 15 days prior to the date on which the Commissioner adopts the amendments. Requests for copies of any modifications should be sent to contact person at the address indicated above. The Commissioner will accept written comments on the modified text for 15 days after the date on which they are made available.

This Notice of Proposed Rulemaking will be sent to all persons on the Department's mailing list.

**TITLE 14. DEPARTMENT
OF CONSERVATION**

NOTICE OF PROPOSED ACTION

**SB 528 QUALITY GLASS
INCENTIVE PAYMENT
PROPOSED PERMANENT REGULATIONS**

**TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT
OF CONSERVATION**

CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 2, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are necessary to:

Subchapter 2. General Requirements

Article 4. General Accounting Requirements

§ 2090 REPORTS, NOTICES AND CLAIMS SUBMITTED TO THE DIVISION.

Amended Subsection 2090(f)(3)(B)(14): This amendment is necessary to reflect the changes made in statute by SB 528. Prior to the enactment of this bill, only curbside programs could receive quality glass incentive payments for color-sorted glass beverage containers. SB 528 extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers collected by curbside programs. This amendment clarifies that, for processors and recyclers that use consolidated shipping reports, eligible color-sorted glass must be identified on this report to claim a quality glass incentive payment. The amendment simplifies the reporting process, and deletes the requirement that mixed color materials also be identified on the consolidated shipping report. The new requirement provides that the designating sorting facility will also identify color-sorted glass—"S" will designate that the glass had been color-sorted by the Shipper, and "R" will designate that the glass had been color-sorted by the receiver. This will be consistent with proposed amendments to Subsection 2425(e)(3) and 2530(f)(11).

§ 2105 PERSONS CERTIFIED AS BOTH PROCESSORS AND RECYCLING CENTERS (DUAL CERTIFIED ENTITIES).

Amended Subsection 2105(b): This regulatory package will make a minor amendment to the

reporting process for processors and recyclers who choose to claim quality glass incentive payments from the Division on the Shipping Report (DR-6). The DR-6, as revised on 07/00 required the processor to indicate in the appropriate box whether glass materials received from curbside programs were "color-sorted" (CS) or "mixed" (MX) color. The newly revised DR-6 will simplify the process and require processors to identify only color-sorted materials on the shipping report that have been collected by curbside programs. The eligible materials will be distinguished by indicating the sorting facility as either the "shipper" ("S") or "receiver" ("R"). In addition, the text in the Quality Glass Incentive Payment box has been modified to reflect the expanded scope of the Quality Glass Incentive Payment Program. Prior to the enactment of SB 528 (Chapter 874, Statutes of 2001) payments were made only to curbside programs. With the passage of SB 528, however, payments may be made to other certified entities that color-sort materials "collected by curbside programs". The revised DR-6 deletes the reference to "Curbside Programs Only" and specifies materials from "Curbside Collection Only". The Shipping Report (DR-6) will be modified to reflect these changes. The reference to the revised date of the Shipping Report (Form DR-6) is necessary to identify the most current revised date of that form. The revision date of March 2002 (03/02) indicated in the emergency regulations was incorrectly entered, and should have been January 2002 (01/02). This nonsubstantive correction is made in this permanent package.

Amended Subsection 2105(c): See comments for Subsection 2105(b).

Subchapter 2. Processors

Article 3. Accounting and Reporting Requirements

§ 2420. RECORDKEEPING.

Amended Section 2420(e): This amendment is necessary to reflect the changes made in statute by SB 528. Prior to the enactment of this bill, only curbside programs could receive quality glass incentive payments for color-sorted glass beverage containers. SB 528 extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers collected by curbside programs. This Section is restructured to clarify the information that must be identified in records that are prepared and retained by processors in processor-to-processor transactions. This restructured Section provides a "laundry list" for processors to easily check the adequacy of information they include in their records.

Renumbered Subsection 2420(e)(1): This restructured Subsection is renumbered for clarity only and contains the current regulatory provision that requires the shipping and receiving processor to be identified in all processor-to-processor transactions.

Renumbered Subsection 2420(e)(2): This restructured Subsection is renumbered for clarity only and contains the current regulatory provision that requires the date of shipment, material type, and weight of material be identified in all processor-to-processor transactions.

New Subsection 2420(e)(3): This Subsection is necessary to reflect the changes made in statute by SB 528. Prior to the enactment of this bill, only curbside programs could receive quality glass incentive payments for color-sorted glass beverage containers. SB 528 extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers collected by curbside programs. In processor-to-processor transactions, current regulations do not provide a mechanism for the purchasing processor to determine the origin of materials purchased. This new Subsection will require that in processor-to-processor transactions, the selling processor indicate the amount of material that was collected by curbside programs.

§ 2425. REPORTING.

Amended Subsection 2425(e)(3): This amendment is necessary to reflect the changes made in statute by SB 528. Prior to the enactment of this bill, only curbside programs could receive quality glass incentive payments for color-sorted glass beverage containers. SB 528 extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers collected by curbside programs. The amendment simplifies the reporting process for processors on the Shipping Report (DR-6), and deletes the requirement that mixed-color materials also be identified in this report. The new requirement provides that the designating sorting facility will also identify color-sorted glass—"S" will designate that the glass had been color-sorted by the Shipper, and "R" will designate that the glass had been color-sorted by the Receiver. This amendment will be consistent with proposed amendments to Subsection 2090(f)(3)(B)(14) and 2530(f)(11).

Deleted Subsection 2425(e)(3)(A): The deletion of this subsection is necessary to simplify the reporting process for processors wishing to submit a claim for quality glass incentive payments. Current regulations require the processor to indicate on the Shipping Report (DR-6) whether eligible glass has been color-sorted or is mixed. Subsection 2425(e)(3)(A) requires color-sorted glass to be designated with a "CS" on the Shipping Report (DR-6). The amended

Subsection 2425(e)(3) will delete the requirement of identifying both color-sorted and mixed glass, and simply require the reporting of materials that are color-sorted. This amendment will be consistent with proposed amendments to Subsection 2090(f)(3)(B)(14) and 2530(f)(11).

Deleted Subsection 2425(e)(3)(B): The deletion of this subsection is necessary to simplify the reporting process for processors wishing to submit a claim for quality glass incentive payments. Current regulations require the processor to indicate on the Shipping Report (DR-6) whether eligible glass has been color-sorted or is mixed. Subsection 2425(e)(3)(B) requires mixed glass to be designated by an "MX" on the Shipping Report (DR-6). The amended Subsection 2425(e)(3) will eliminate the requirement of identifying glass materials that are not color-sorted (i.e., mixed-color). This amendment will be consistent with proposed amendments to Subsection 2090(f)(3)(B)(14) and 2530(f)(11).

Subchapter 6. Recycling Centers
Article 3. Accounting and Reporting
Requirements

§ 2530 REPORTING.

Amended Subsection 2530(f)(11): This amendment is necessary to reflect the changes made in statute by SB 528. Prior to the enactment of this bill, only curbside programs could receive quality glass incentive payments for color-sorted glass beverage containers. SB 528 extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers collected by curbside programs. The amendment simplifies the reporting process for recyclers on the Shipping Report (DR-6), and deletes the requirement that mixed-color materials also be identified in this report. The new requirement provides that the designating sorting facility will also identify color-sorted glass—"S" will designate that the glass had been color-sorted by the Shipper, and "R" will designate that the glass had been color-sorted by the Receiver. This amendment will be consistent with proposed amendments to Subsection 2090(f)(3)(B)(14) and 2425(e)(3).

Deleted Subsection 2530(f)(11)(A): The deletion of this subsection is necessary to simplify the reporting process for certified entities wishing to submit a claim for quality glass incentive payments. Current regulations require the recycler to indicate on the Shipping Report (DR-6) whether eligible glass has been color-sorted or is mixed. Subsection 2530(f)(11)(A) requires color-sorted glass to be designated with a "CS" on the Shipping Report (DR-6). The amended Subsection 2530(f)(11) will delete the requirement of identifying both color-sorted and mixed glass,

and simply require the reporting of materials that are color-sorted. This amendment will be consistent with proposed amendments to Subsection 2090(f)(3)(B)(14) and 2425(e)(3).

Deleted Subsection 2530(f)(11)(B): The deletion of this subsection is necessary to simplify the reporting process for certified entities wishing to submit a claim for quality glass incentive payments. Current regulations require the recycler to indicate on the Shipping Report (DR-6) whether eligible glass has been color-sorted or is mixed. Subsection 2530(f)(11)(B) requires mixed glass to be designated by an "MX" on the Shipping Report (DR-6). The amended Subsection 2530(f)(11) will eliminate the requirement of identifying glass materials that are not color-sorted (i.e., mixed-color). This amendment will be consistent with proposed amendments to Subsection 2090(f)(3)(B)(14) and 2425(e)(3).

Subchapter 11.5. Quality Glass
Incentive Payments
Article 1. General Requirements

New Subchapter 11.5: Prior to the enactment of SB 528, quality glass incentive payments could only be made to curbside programs, as specified. The guidelines for making these payments were contained in Section 2690, which was contained in Subchapter 8 of the regulations regarding curbside programs. SB 528, as enacted October 14, 2001, extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers. Therefore, the regulations regarding quality glass incentive payments must be renumbered and moved from Subchapter 8, which pertains to curbside programs. Because no current Subchapter applies to such a broad scope of participants, a new Subchapter must be established. Section 2690 has been renumbered as Section 2850, and moved from Subchapter 8 (regarding curbside programs) to new Subchapter 11.5 (regarding Quality Glass Incentive Payments).

New Article 1. General Requirements: Prior to the enactment of SB 528, quality glass incentive payments could only be made to curbside programs, as specified. The guidelines for making these payments were found in Section 2690, which was contained in Article 3 of Subchapter 8 of the regulations regarding curbside programs. SB 528, as enacted October 14, 2001, no longer restricts the payment of quality glass incentive payment to curbside programs, but extends the eligibility to any certified entity that color-sorts glass beverage containers. Therefore, the regulations regarding quality glass incentive payments must be renumbered and moved, and because no current Article and Subchapter applies to such a broad scope of participants, a new Subchapter and a new Article 1, regarding General Requirements must be established. Therefore,

Section 2690 has been renumbered as Section 2850, and moved from Subchapter 8 (regarding curbside programs) to new Article 1 (regarding General Requirements) within new Subchapter 11.5 (regarding Quality Glass Incentive Payments).

§ 2850 QUALITY GLASS INCENTIVE PAYMENTS

Renumbered Section 2850: Prior to the enactment of SB 528, quality glass incentive payments could be made only to curbside programs, as specified. The guidelines for making these payments was contained in Section 2690, which was contained in Subchapter 8 of the regulations regarding curbside programs. Because SB 528, as enacted October 14, 2001, no longer restricts the payment of quality glass incentive payment to curbside programs, but extends the eligibility to any certified entity that color-sorts glass beverage containers, this provision must be renumbered and moved to new Subchapter 11.5 that applies to Quality Glass Incentive Payments. Therefore, Section 2690 has been renumbered as Section 2850, and moved from Subchapter 8 (regarding curbside programs) to new Article 1 (regarding General Requirements) within Subchapter 11.5 (regarding Quality Glass Incentive Payments).

Amended Subsection 2850(a): This amendment is necessary to reflect the changes made in statute by SB 528. Prior to the enactment of this bill, only curbside programs could receive quality glass incentive payments for color-sorted glass beverage containers. SB 528 extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage containers collected by curbside programs. This amendment deletes the eligibility restriction for quality glass incentive payments, which was contained in prior statute. This amendment clarifies that quality glass incentive payments are to be made directly to any certified entity that color-sorts glass from curbside programs.

New Subsection 2850(b): This Section is necessary to inform certified entities that color-sort eligible material prior to completion of the Shipping Report (DR-6) that the sorting facility must be identified on the Shipping Report Form, as specified in Subsection 2425(e), or 2530(f). Identification of the sorting facility on the Shipping Report (DR-6) will enable the Division's fiscal intermediary (IKON) to determine the entity that is to be paid for the volume of eligible color-sorted materials specified.

New Subsection 2850(c): Because the Shipping Report (DR-6) can only be completed by recyclers and processors and reflects the condition of material (i.e., color-sorted or mixed-color) purchased at that point in time, materials that are color-sorted after completion of the DR-6 cannot be claimed as color-sorted on the

Shipping Report (DR-6). For that reason, a separate process has been established for those certified entities that choose to claim quality glass incentive payments for eligible materials that are color-sorted after completion of the Shipping Report (DR-6).

This new Subsection is necessary to inform certified entities that color-sort eligible material after completion of the Shipping Report (DR-6) of the need to complete a Quality Glass Incentive Payment Claim Form (DOR 56 01/02) for each calendar month the quality glass incentive payments are being requested. This will allow the Division to track claims, forecast the amount of color-sorted materials, calculate the payments per ton, and audit the accuracy of payments made. In addition, the certified entity will be required to request an authorization from the Division to submit claims for quality glass incentive payments.

New Subsection 2850(c)(1): This new Subsection is necessary to inform certified entities that choose to color-sort glass after completion of the Shipping Report Form that they must submit to the Division a request for approval of an authorization to submit claims for quality glass incentive payments. Included in this request is a methodology to be developed by the sorting facility to attribute glass materials to the types of programs from which they were received. This will ensure that glass materials collected from sources other than curbside programs are excluded from the amount claimed.

New Subsection 2850(c)(2): This new Subsection is necessary to establish guidelines the Division will use in reviewing a request for authorization to submit claims for quality glass incentive payments. The Division will be required to review each request for authorization and issue a written approval or denial within 45 days of receipt of the request. The authorization will be valid for a period of three years from the date of approval unless surrendered, suspended, or revoked by the Division.

New Subsection 2850(c)(3): This new Subsection is necessary to establish and inform participants of the Division's criteria that will be used to deny a request for authorization, or for suspending or revoking an approved authorization.

New Subsection 2850(c)(3)(A): This new Subsection is necessary to inform participants that a request for authorization may be denied, or an approved authorization may be suspended or revoked if mixed-color glass that is received from entities other than curbside programs is not excluded from the quality glass incentive payment claim. Statute specifies that quality glass incentive payments be paid only on material collected by curbside programs. Sorting facilities must demonstrate their ability to ensure the exclusion of non-curbside materials from the quality glass incentive payment claims.

New Subsection 2850(c)(3)(B): This new Subsection is necessary to inform participants that a request for authorization may be denied, or an approved authorization may be suspended or revoked if they are unable to account for each incoming load of mixed color glass. This will ensure that only eligible materials are claimed, and allow the Division to track and audit materials and payments made for color-sorted glass.

New Subsection 2850(c)(3)(C): This new Subsection is necessary to inform participants that a request for authorization may be denied, or an approved authorization may be suspended or revoked if claims are not based on the color-sorted weight of the glass material. This Subsection will implement the statutory provision that restricts the payment of quality glass incentive payments to color-sorted glass beverage containers.

New Subsection 2850(c)(3)(D): This new Subsection is necessary to inform participants that a request for authorization may be denied, or an approved authorization may be suspended or revoked if the required records are not maintained. The maintenance of these inventory records allows the Division to track the materials shipped and received, thereby enhancing the ability of the Division to audit and ensure the accuracy of the payments made to the facility, thereby ensuring the integrity of the California Beverage Container Recycling Fund.

New Subsection 2850(c)(3)(E): This Subsection is necessary to inform participants that a request for authorization may be denied, or an approved authorization may be suspended or revoked if the sorting facility has been found to be in violation of the Act or regulations. The ability of the Division to deny, suspend, or revoke authorization to file a claim will encourage compliance with provisions contained in the Act and regulations.

New Subsection 2850(c)(4): This new Subsection is necessary to inform any sorting facility of the reconsideration process that is available if the Division denies, suspends, or revokes an authorization to submit claims for quality glass incentive payments. The sorting facility will be required to submit a written request for reconsideration within 30 days of the service of notice, and include the information specified in paragraphs (A) through (C).

New Subsection 2850(c)(4)(A): This new Subsection is necessary to inform the sorting facility that, with the request for reconsideration, they must include a copy of the notice of denial, suspension, or revocation that is sent by the Division. This will ensure that the Division reviews information regarding the correct parties and accurately addresses the grounds for denial, suspension, or revocation.

New Subsection 2850(c)(4)(B): This new Subsection is necessary to inform the sorting facility that, with the request for reconsideration, they must include a detailed explanation of their proposed grounds for reconsideration. This will allow the Division to effectively and accurately review and address the basis of the request for reconsideration.

New Subsection 2850(c)(4)(C): This new Subsection is necessary to inform the sorting facility that, with the request for reconsideration, they must include any documentation that supports the request. This will allow the Division to effectively and accurately review and address the basis of the request for reconsideration.

New Subsection 2850(c)(5): This new Subsection is necessary to establish a time period in which the Division must make a determination regarding any request for reconsideration of a denial, suspension, or revocation of an authorization to submit claims for quality glass incentive payments. This will hold the Division accountable, and ensure the prompt review of any such request.

New Subsection 2850(c)(6): This new Subsection is necessary to inform certified entities who submit claims of the time frame required for submission of the Quality Glass Incentive Payment Claim (DOR 56 01/02). These time frames are necessary to allow sufficient time for both the participant to submit necessary information, and the Division to review and process the claims accurately. To encourage the prompt and accurate submission of claims, claimants are informed that late or incomplete claims may be denied.

New Subsection 2850(c)(7): This new Subsection is necessary to inform the certified entities that choose to submit claims of the information that will be required on the Quality Glass Incentive Payment Claim Form (DOR 56 01/02).

New Subsection 2850(c)(7)(A): This new Subsection is necessary to inform the certified entities who choose to submit claims to specify the month for which the claim is being submitted. This requirement will assist the Division and certified entity in maintaining accurate records. This will facilitate the payment of claims and the tracking, projection, and auditing of payments.

New Subsection 2850(c)(7)(B): This new Subsection is necessary to inform the certified entities who choose to submit claims that they must include their facility name, mailing address, and certification number to ensure payment is correctly made and to allow the Division to verify that the sorting facility is actually a certified entity. This information will also

assist the Division in tracking and auditing payments to ensure the integrity of the Beverage Container Recycling Fund.

New Subsection 2850(c)(7)(C): This new Subsection is necessary to inform the certified entities who choose to submit claims that they must include the name and phone number of a contact person. This information will facilitate the payment process when the information submitted is ambiguous or incomplete. This information will also assist the Division in tracking and auditing payments to ensure the integrity of the Beverage Container Recycling Fund.

New Subsection 2850(c)(7)(D): This new Subsection is necessary to inform certified entities who choose to submit claims to include the redemption weight of the of the color-sorted glass materials on the Quality Glass Incentive Payment Claim Form (DOR 56 01/02). This allows the Division to determine the payment to be made to the sorting facility.

New Subsection 2850(c)(7)(E): This new Subsection is necessary to specify that the signature and title of the authorized representative of the certified entity must be included on the Quality Glass Incentive Payment Claim Form (DOR 56 01/02). This allows the Division to determine legitimate claims, and to track and audit payments made.

New Subsection 2850(c)(7)(F): This new Subsection is necessary to inform claimants that the Quality Glass Incentive Payment Claim Form (DOR 56 01/02) must be dated. This will enhance the ability of the Division and the claimant to accurately track and review claims. This will also allow the Division to perform necessary audits of participants to ensure the integrity of the California Beverage Container Recycling Fund.

Renumbered Subsection 2850(d): This Section is renumbered due to the addition of new Subsections 2850(b) and (c), which changed the numbering of subsequent sections for consistency. Therefore, this Subsection, which was numbered 2690(b) in previously adopted regulations, is now renumbered 2850(d) in this regulatory package.

Amended Subsection 2850(d): This amendment is necessary to clarify the Division's authority to deny or reduce the quality glass incentive payment if the Division has prevailed in a claim against any certified entity and money is owed to the Division. Pursuant to current regulation, the Division has authority to deny or reduce a payment to curbside programs if the Division has prevailed in a claim against a curbside program. Because SB 528 expanded the eligibility to claim quality glass incentive payments to any certified entity, this change will reflect the change made in statute.

Renumbered Section 2850(e): This Section is renumbered due to the addition of new Subsections 2850(b) and (c), which changed the numbering of subsequent sections for consistency. Therefore, this Subsection, which was numbered 2690(c) in previously adopted regulations, is now renumbered 2850(e) in this regulatory package.

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the express terms of the proposed action, the initial statement of reasons and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 18th Floor, Sacramento, California. Please contact the agency contact person, Marty Nold at (916) 327-2761. The backup agency contact person for this rulemaking file is Cheryl Brown, who may be contacted at (916) 323-0728. Questions regarding this file may be directed to either Marty Nold or Cheryl Brown. Technical questions regarding this file may be directed to Zenny Yagen, at (916) 327-2906.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on December 2, 2002. We request that all written comments reference a subsection or section of the proposed action. Comments that are received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Marty Nold, SB 528 Quality Glass Incentive Payment Proposed Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 18-58, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 327-8668.

PUBLIC HEARING SCHEDULED

The hearing will be begin promptly at 10:00 a.m. and will adjourn immediately after hearing the last public comment by those individuals present. The conference room is wheelchair accessible. The public hearing to record public comments on the proposed amended regulations is scheduled for:

December 2, 2002 at 10:00 a.m.
The Renaissance Tower
18th Floor Training Room
801 "K" Street
Sacramento, CA 95814

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE

Following the public hearing, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed regulatory action, a revised notice, called a renote, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days. Only persons who have provided their names and addresses to the Department and were present at the hearings, submitted written or oral comments, or requested notification of amendments to the regulations, will be sent any renotes.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Beverage Container Recycling and Litter Reduction Act was enacted in 1986 to encourage the recycling of empty beverage containers and the reduction of litter in California. Public Resources Code Section 14549.1 was enacted by AB 1244 (Chapter 817, Statutes of 1999), and authorized the Department of Conservation, Division of Recycling (Division) to pay a quality glass incentive payment of up to \$3 million annually to operators of curbside programs for color-sorted glass beverage containers that are substantially free of contaminants. Curbside programs typically deliver materials directly to either a material recovery facility (MRF), recycling center, or processor that has a MRF on site (although some curbsides still sort at the curb).

SB 528 (Chapter 874, Statutes of 2001) was enacted as an urgency measure and became effective on October 14, 2001. This bill extended the eligibility for quality glass incentive payments to any certified entity that color-sorts glass beverage container materials collected by curbside programs for recycling. As of October 14, 2001, any certified entity that color-sorts glass collected by curbside programs is eligible to collect quality glass incentive payments. Emergency regulations were filed with the Office of Administrative Law (OAL) and became effective on March 25, 2002, were readopted on July 23, 2002, and will expire on November 20, 2002. That emergency package implemented the changes established by SB 528, by establishing and clarifying the reporting requirements for certified entities that are eligible to collect these payments; and updated the Shipping Report Form (DR-6) for those certified entities that color-sort glass

beverage container materials prior to completion of this form. The regulations proposed in this package will permanently adopt the regulations contained in the emergency package that are now in effect. This will enable the Division to continue to make payments to those entities that color-sort eligible materials.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

REFERENCE

Revisions to California Code of Regulations Title 14, Division 2, Chapter 5, Sections 2090, 2105, 2420, 2425, 2530, and renumbered Section 2850 are intended to make more specific Public Resources Code Section 14549.1.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any State agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code §§ 17500 through 17630: The Department has determined that the adoption of these proposed regulations do not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The Department has determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements. The Department has determined that any reports required pursuant to these proposed regulations are necessary for the health, safety, or welfare of the people of the state.

Potential cost impact on private persons or directly affected businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposed regulation does not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new or eliminate existing businesses within California;

Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Adverse effects on small businesses: The Department has determined that the adoption of these proposed regulations do not adversely affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: www.consrv.ca.gov.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 240, 1006, 7071, 7652, 7923, 8405.3, 8425, 8587.1, and 8591 of the Fish and Game Code and to implement, interpret or make specific sections 7055, 7056, 7058, 7071, 8587, and 8587.1, of said Code, proposes to add section 105.5 and repeal subsection 195(e), Title 14, California Code of Regulations, relating to Cooperation with State and Federal Fishery Observers.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing law, State and federal regulations exist to manage groundfish species including rockfish and lingcod. These regulations include State and federal provisions for the placement of fishery observers aboard commercial fishing vessels. Also under existing regulations, lingcod and at least six species of rockfish (bocaccio, cowcod, canary, yellow-eye, darkblotched, and widow rockfishes) have been declared overfished off California, and subject to rebuilding requirements as directed under the Magnuson-Stevens Sustainable Fisheries Act. Also under existing law, nearshore rockfish and associated species that are being subjected to increased fishing by commercial and sport fisheries, are directed to be managed on a sustainable basis, that include the setting of annual harvest limits. On August 30, 2002, the Fish and Game Commission (Commission) adopted emergency regulatory changes to ensure cooperation with at-sea fisheries observers that collect vital fisheries information from which to assess effects of the fishery on important fish stocks.

Annual assessments of the status of shelf and nearshore groundfish stocks depend on the collection of data, including information on fisheries bycatch and discards that is collected by fishery observers from vessels while at sea. Some owners and operators of fishing vessels that are fishing for State-managed species or for which a federal permit is not required are refusing to participate in ongoing observer programs that collect this vital information. To deal with this problem so that blocks of vital fishery data are not lost, and the integrity of dependent fisheries assessments is not compromised, regulatory action is proposed to require that owners and operators of commercial fishing vessels permitted under regulations of the Commission, and commercial passenger fishing vessels licensed pursuant to Fish and Game Code Section 7920, will, as a condition of permit or

license issuance, cooperate with Department or Federal fishery observers, or observers collecting data for the Department, when asked to carry and accommodate an observer on fishing trips at no cost to the sponsoring agency. The Department may request revocation of fishing permits or licenses by the Commission for denials for observer access where the denials are deemed uncooperative in nature, after first allowing the owner or operator to meet with the Manager of the Marine Region or his representative, to provide an explanation of the denial. The regulations also include provisions for requiring a vessel owner or operator to provide explanation in writing within 15 days of a written request by the Department where an observer is denied access (coverage) on a trip. The proposed regulations provide that a Department or federal request to place an observer aboard shall not include a requirement that the vessel owner or operator provide an observer with meals or a subsistence allowance, but require that they shall accommodate the observer with regard to reasonable eating and working condition and access to pertinent fishing information and fishery data while aboard the vessel. Failure to provide such reasonable access may lead to revocation of vessel fishing permits or licenses issued under regulations of the Commission. The proposed regulations make it unlawful to assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with an observer, or otherwise interfere with or bias sampling procedures, tamper with, destroy or discard an observer's collected samples, equipment, or gear, or require the observer to perform duties normally performed by crew members. These proposed regulations follow the recent adoption and approval of emergency regulations to make the regulations permanent and effective during 2003 and beyond.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Monterey Beach Resort Hotel, 2600 Sand Dunes Drive and Highway 1, Monterey, California on Friday, December 6, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before December 2, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 6, 2002, at the hearing in Monterey, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commis-

sion, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Don Schulze, Marine Region, Department of Fish and Game, phone (916) 227-5670, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein. If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Generally, participants in the commercial sectors of the nearshore fishery are small business operators. The commercial fishery is conducted from a variety of small to large sized vessels that utilize a variety of fishing gear in coastal waters. The proposed regulations that have already been adopted on an emergency basis do not require the vessel operator to or owner to provide an observer with meals or a subsistence allowance on observed fishing tips, but must accommodate the observer with regard to reasonable eating and working condition. These requirements are not expected to result in significant adverse economic impacts to affected businesses.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 2003 of the Fish and Game Code and to implement, interpret or make specific sections 711, 713, 1050 and 2003, of said Code, proposes to amend section 230, Title 14, California Code of Regulations, relating to the Issuance of Permits for Contests Offering Prizes for the Taking of Game Fish.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under current regulations, if two or more applicants have requested a permit for a Type A (Event) contest

on the same date for a water, the application received first shall be given priority. Type A contests are those events offering prizes totaling more than \$1,000 in value or with more than 50 participants. Type A contests may not exceed three days in duration and no more than one Type A event may be held at any water on the same day for the same game fish category listed in subsection 230(b)(1) Title 14, CCR. Additionally, applications may not be accepted by the Department prior to January 1 of the year preceding the calendar year in which any contest is proposed.

Current regulations allow the first applicant to apply for and receive an almost unlimited number of permits for various waters and dates with no regard for other applicants. This has led to some applicants applying for and receiving a large number of permits with little effort made to conduct the contest. This practice prevents other applicants from holding fishing contests at that particular water on that date and unfairly reduces competition.

In addition, Mr. Mike Kennedy has requested that the date for accepting applications be changed from January 1 to July 1 of the year preceding the calendar year in which the contest is proposed. The January 1 date was changed from July 1 at the request of several sponsors in 1998 by the Fish and Game Commission. The original date was set arbitrarily by the Department and has no resource implications for issuance of fishing contest permits.

The proposed changes would accommodate Mr. Kennedy's requests and change the date for accepting applications from January 1 to July 1 of the year preceding the calendar year in which the contest is proposed; and change the regulation that requires the Department to give priority to the application received first, and provide that the Department shall issue permits to applicants on a first-come first-serve basis or by a lottery or draw conducted by Department personnel.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Monterey Beach Resort Hotel, 2600 Sand Dunes Drive and Highway 1, Monterey, California on Friday, December 6, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before December 2, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 6, 2002, at the hearing in Monterey, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, and all information upon which the proposal is based

(rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>. Substance questions should be addressed to John M. Duffy.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein. If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The changes are primarily for clarification, and they will have no substantial influence on human activities.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 240, 7071, 8587.1 and 8588, of the Fish and Game Code and to implement, interpret or make specific sections 240, 8585.5, 8587.1 and 8588 of said Code, proposes to amend sections 150.06 and 150.16, Title 14, California Code of Regulations, relating to Seasonal Closures for Cabezon, Greenling, Sheephead and Rockfishes.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Revisions to existing state regulations for rockfish (including California scorpionfish), and lingcod, and also for cabezon, greenlings, and sheephead (CGS) are needed, largely due to new federal groundfish laws that will become effective January 1, 2003. These proposed changes include 1) Re-define current state seasonal regulations which conflict with federal commercial regulations for rockfish and lingcod in 2003; 2) Eliminate conflicting fishing seasons for

nearshore rockfish and CGS; and 3) Bring CGS regulations for the northern area [40°10' N. lat (near Cape Mendocino) to the Oregon Border] into alignment with either the 2003 nearshore rockfish season in the northern area or the CGS season in the rest of the state. The Department recommends a uniform state-wide commercial season for CGS.

Existing state regulations establish a northern and southern rockfish and lingcod management area and seasonal closure periods for each area. These closure periods will not be consistent with federal regulations for shallow and deeper nearshore rockfishes and California scorpionfish that were adopted for 2003. It is desirable to have consistent state and federal open and closed periods for the purpose of enforcement, as well as for the regulations to work effectively to keep catches within allowable harvest levels.

Furthermore, leaving commercial seasons for CGS open while federal seasons for minor nearshore rockfish are closed will result in bycatch of rockfish that cannot legally be retained and sold. Since rockfish suffer mortality and stress from hooks, traps and barotrauma when the law requires they be released, having seasons out of alignment is not desirable for the health of the resource. Aligned seasons allows targeting on the various nearshore fish stocks to co-occur at the same time during open periods, while during closed periods, interaction and bycatch of species that cannot be retained are minimized.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 "H" Street, Suite 100, Crescent City, on Friday, October 25, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Monterey Beach Resort Hotel, 2600 and Dunes Drive and Highway 1, Monterey, on Friday, December 6, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Monday, December 2, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 6, 2002, at the hearing in Monterey. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant

Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding phone number. Ms. Patricia Wolf, Marine Manager, Department of Fish and Game, (562) 342-7108 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, as the actions simply seek to shift various months in which fishing activities may occur or not occur.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 710.7, 711, 8591, and 8842 of the Fish and Game Code and to implement, interpret or make specific sections 710.7, 711, 8140, 8590, 8591, 8593, 8595, and 8842, of said Code, proposes to amend Section 120.3 and add Section 120.45, Title 14, California Code of Regulations, relating to spot prawn trawling.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The spot prawn trawl fishery is open-access and is closed from November 1 through January 31 statewide. The Department's recently released report,

Results of California Department of Fish and Game Spot Prawn Trawl and Trap Fisheries Observer Program 2002–2001, estimated a total bycatch in the trawl fishery of 5 tons of bocaccio, 1.2 tons of cowcod, and 6.5 tons of darkblotched rockfish in a one-year period. This level of bycatch of these overfished rockfish species is considered unacceptable, and the Commission has taken emergency action to prohibit trawling for spot prawn in California for the rest of 2002 fishing season.

The Department is proposing the following regulatory options to be considered individually or in combination for implementation by February 1, 2003, the reopening of the spot prawn trawl season:

- a moratorium on the issuance of new spot, ridgeback, and golden prawn trawl permits (these species are combined under a single permit);
- a requirement that all spot prawn trawl vessels cooperate with the federal groundfish observer program or require their participation in a contract observer program;
- a prohibition on the use of trawl nets to take spot prawn;
- a prohibition on the use of trawl nets to take spot prawn with the allowance of a conversion to trap fishing, subject to certain minimum landing requirements from the trawl fishery during the 1997 to 1999 window period;
- the establishment of a minimum depth restriction for spot prawn trawling south and north of Point Reyes at 150 fathoms and 250 fathoms, respectively;
- a requirement that all spot prawn trawl vessels use small roller gear (8-inch diameter or smaller) and/or hard grate excluders in their nets;
- the establishment of a six-month closed season for spot prawn trawling that runs from September 1 through the end of February; and
- a requirement that all spot prawn trawl vessels be equipped with a vessel monitoring system when the federal government has an operational monitoring program.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 H Street, Crescent City, California, on Friday, October 25, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Monterey Beach Resort Hotel, 2600 Sand Dunes Drive and Highway 1, Monterey, California, on Friday, December 6, 2002, at 8:30 a.m., or as soon

thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 29, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 6, 2002, at the hearing in Monterey, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Kristine Barsky, Marine Region, Department of Fish and Game, phone (805) 985-3114, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Each spot prawn trawler or buyer is considered a business. Spot prawn are landed either live or dead, but the live product demands a much greater price and is the preferred method of landing. In

2000 and 2001, 39 and 43 trawl vessels, respectively, landed spot prawn in California. Of those vessels, 22 and 21, respectively, landed more than 1,000 pounds of spot prawn at an average price of \$7.00/ pound (live). The estimated ex-vessel value of the spot prawn trawl fishery was \$1.4 million in 2001. The estimated loss to the fishery participants from a September-October closure alone would be \$0.4 million based on the ex-vessel value of spot prawn and seasonal trends in catch and effort. In addition to losses incurred by fishermen due to their inability to provide their product, California buyers, processors and consumers will suffer additional losses which are not easily quantified.

In recent years, a number of these vessels have also participated in trawl fisheries for pink shrimp, California halibut, ridgeback prawn, and sea cucumber (the other state-managed trawl fisheries). Although pink shrimp and sea cucumber are restricted access fisheries, the other two are open access. It is anticipated that a number of the affected spot prawn vessels would resume participation or participate more actively in these other fisheries if a prohibition on trawling went into effect. Increased participation in the other state-managed trawl fisheries would likely have a negative impact of unknown degree on the halibut and ridgeback trawl fisheries, and to a lesser degree pink shrimp and sea cucumbers. These fisheries are already fully exploited and additional effort will cause decreased success in the remaining trawl fisheries.

A vessel is a significant liability to the owner when it is not being used to fish. There are always berthing and maintenance fees. There is no resale value on a trawl vessel that can no longer be used to fish. Therefore cashing out is not an option for a fisherman with a trawl vessel and no permit guaranteeing a place in an existing fishery.

Conversion of trawl vessels to trap vessels would have a negative effect on the existing trap fishery participants and would also result in reduced income to the fishermen converting to a new gear type. The initial investment for each trap and associated rigging could run \$35 to \$75 per trap.

As opposed to a complete prohibition on spot prawn trawl activity, a depth closure would allow the larger trawl vessels (approximately 50 feet in length or greater), the ones that usually make the largest landings, to continue to operate, although on a limited basis. Results from the bycatch observer study showed that approximately 90 percent of all observed trawl tows occurred in water

less than 150 fathoms deep. Small trawl vessels can not operate beyond the depth closure because of size, power and stability limitations.

A moratorium on new permits, or cooperation with a federal observer program are not expected to have negative impacts on business. However, a contract observer program would be costly for such a small fleet of vessels. Contract observers can easily cost from \$300 to \$500 a day. A large portion of the fleet would not be able to operate with the additional cost of such an observer program.

The gear restrictions being proposed might result in a reduced take of spot prawn. However, fish bycatch in the net is detrimental to the prawns, so there could also be a positive effect that offsets any shrimp loss. There would be an initial investment to convert to a small footrope and or install a hard grate excluder that would be difficult to quantify, although it is not expected to be prohibitive.

A six-month closed season would have a detrimental effect on trawl participants. The amount of income each trawl fisherman would lose during an additional three month closure is not quantifiable, but could make the fishery unviable economically for a number of participants, especially those with smaller vessels.

A vessel monitoring system, depending on the model selected, would range in cost between \$1700 and \$2700. This would be a one-time cost that would be amortized over time.

The Commission has made an initial determination that the adoption and amendment of these regulations may have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
- (ii) consolidation or simplification of compliance and reporting requirements for businesses;
- (iii) the use of performance standards rather than prescriptive standards; or
- (iv) exemption or partial exemption from the regulatory requirements for business.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

See section (a) above.

- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 15. DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Division 3

NOTICE IS HEREBY GIVEN that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend section 3025 and 3315 in the California Code of Regulations (CRC), Title 15, Division 3 relating to the collection of DNA samples or specimens from inmates and parolees.

PUBLIC HEARING

Date and Time: December 10, 2002
From 9am–12pm
Place: Department of Water Resources
Auditorium
1416 Ninth Street
Sacramento, CA 95814
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close December 10, 2002 from 9am–12pm. Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 322-3842; or by e-mail at RPMB@executive.corr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Rick Grenz, Chief
Regulation and Policy Management Branch
Department of Corrections
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 322-9702

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

C. Mraz
Regulation Management Unit
Telephone (916) 322-9702

Questions regarding the substance of the proposed regulatory action should be directed to:

Don Price, Correctional Counselor II
Institution Services
Telephone (916) 327-5305

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no affect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, Initial Statement of

Reasons, and the Notice of Proposed Action will also be made available on the Department's website <http://www.cdc.state.ca.us>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

This action will amend provisions governing the sample or specimen collection of DNA. Currently, if an inmate or parolee refuses to submit a DNA sample, the Department must get a court order to obtain a sample. This is quite burdensome, not only to the Department, but to the courts, and violates the intent of Penal Code (PC) Section 295 et seq.

Senate Bill (SB) 1242, 2001–2002 Regular Session, amended Penal Code Section 298.1 to allow the use of reasonable force to collect blood specimens, saliva samples, or thumb or palm print impressions from inmates or parolees who, after requested to do so, refuse to provide such samples.

These regulations will bring these new procedures into compliance with the provisions of SB 1242.

Section 3025 is amended. Those amendments will:

- Provide that once the specified specimens are obtained, they be submitted to the Department of Justice (DOJ) as soon as administratively practicable. In addition, the phrase "after receiving written notification in accordance with PC 298.1,"

has been stricken. The obligation to provide a specimen exists without written notification to the inmate or parolee. The legal obligation/duty attaches at the moment the offender is convicted of a qualifying offense. The phrase was stricken for that reason. Also, a writer's palm print impression was added to the list of required specimens because the Palm Print Card provided by the Department of Justice requires such an impression.

- Allow local law enforcement authorities to designate a location where parolees are to have their specimens collected.
- Allow for the disposition of specimens.
- Specify that only designated staff can handle forms or the specimens.
- Explain the consequences if a parolee or inmate refuses to provide required specimens after being given written notification to do so.
- States that the use of reasonable force, as defined, may be used to obtain the required specimens from an inmate or parolee. Reasonable force may only be used after the supervising officer on duty has given written authorization to use such force.
- Requires that all efforts to secure requisite specimen samples, on a voluntary basis shall be employed, before the use of reasonable force is imposed. Staff will use reasonable force to obtain the needed samples if the inmates or parolees don't cooperate. This, however, will only occur after all other efforts have failed.
- Provides for the videotaping of the use of reasonable force to obtain DNA samples when a cell extraction must be performed.

Section 3315 is amended. Those amendments will:

- Strike out the provisions that allow the refusal of submitting to specimen collection and the statement that forced compliance will not occur without a court order. This amendment reaffirms that compliance will be compelled with the use of reasonable force, if necessary.

TITLE 16. CEMETERY AND FUNERAL BUREAU

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (hereinafter "bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 400 R Street, First Floor Hearing Room, Sacramento, CA 95814 at 10:00 a.m., on December 17, 2002. Written comments, including those sent by mail, facsimile, or e-mail to the

address listed under Contact Person in this Notice, must be received by the bureau at its office not later than 5:00 p.m. on December 13, 2002 or must be received by the bureau at the hearing. The bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 7606 of the Business and Professions Code (B & P), and to implement, interpret, or make specific sections 7685, 7685.5, 7685.6, and 7745 of said code, the Cemetery and Funeral Bureau is considering changes to Division 12 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Legislation effective January 2001 (Statutes 2001, Chapter 715, AB 1277), requires the Bureau to promulgate regulations to develop a form disclosing whether or not a funeral establishment has any preneed arrangements made by or on behalf of the decedent to be provided to consumers by a funeral establishment prior to the drafting of a contract for funeral services. These proposed regulations will specify: the definition of a preneed arrangement; the disclosure statement required to appear on a general price list; the funeral establishments responsibilities under Section 7745; and the disclosure form to be provided to consumers.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The bureau has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The bureau has determined that the proposed regulations would not affect small businesses.

CONSIDERATION OF ALTERNATIVES

The bureau must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Cemetery and Funeral Bureau at 400 R Street, Suite 3080, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **or** by accessing the web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Linda Kassis
Address: 400 R Street , Suite 3080
Sacramento, CA 95814
Telephone No.: (916) 322-7737
Fax No. (916) 323-1890
E-Mail Address: Linda_Kassis@dca.ca.gov

The backup contact person is:

Name: Dori Darrington
Address: 400 R Street, Suite 3080
Sacramento, CA 95814
Telephone No.: (916) 322-7737
Fax No. (916) 323-1890

Inquiries concerning the substance of the proposed regulations may be directed to Linda Kassis at (916) 322-7737.

Web site Access: Materials regarding this proposal can be found at www.dca.ca.gov/cemetery.

TITLE 17. DEPARTMENT OF HEALTH SERVICES

NOTICE OF EMERGENCY RULEMAKING

SUBJECT

Varicella (Chickenpox) Immunization (R-52-00E)

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on December 13, 2002, which is hereby designated as the close of the written comment period. It is requested but not required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments by FAX (916-657-1459) or email (regulation@dhs.ca.gov) must be received before 5:00 p.m. on the last day of the public comment period. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the

Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

CONTACTS

In any of the following inquiries, please identify the action by using the Department regulation control number R-52-00E:

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the emergency regulations described in this notice may be directed to Sandra Jo Hammer of Division of Communicable Disease Control, Immunization Branch, at (510) 540-2198.
3. All other inquiries concerning the action described in this notice may be directed to Barbara Gallaway, RN, MSN, of the Office of Regulations at (916) 657-3197, or to the designated backup contact person, Linda Tutor, at (916) 654-0381.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing law (Health and Safety Code (HSC) Sections 120325–120375) and regulations (California Code of Regulations, Title 17, Sections 6000–6075), children are required to receive certain immunizations in order to attend public and private elementary and secondary schools, child care centers, family day care homes, nursery schools, day nurseries and development centers.

These emergency regulation amendments, pursuant to HSC Sections 120325 and 120335, SB 741 (Statutes of 1999, Chapter 747), add the following immunization requirement: Varicella (chickenpox) to the required immunizations for children 18 months old and greater currently enrolled in or entering child care centers, family day care homes, nursery schools, day nurseries, development centers and children entering schools who were not admitted to school in California before July 1, 2001: (a) one dose of Varicella (chickenpox) vaccine for children 18 months old until age 13 and (b) two doses of Varicella (chickenpox) vaccine for children aged 13 years and older who have not previously received Varicella immunization. This emergency regulation amendment will also allow permanent medical exemption from the requirement with physician documentation of clinical varicella (chickenpox) disease.

This emergency regulation amendment adds Varicella to the following reviews of required immunization status and reporting conducted by the child care centers, family day care homes, nursery schools, day nurseries, development centers and kindergartens on the forms entitled: ANNUAL FAMILY DAY CARE

HOME IMMUNIZATION SURVEY (DHS 8529, 10/00), ANNUAL IMMUNIZATION REPORT ON CHILDREN ENROLLED IN CHILD CARE CENTERS (DHS 8018, 3/01), IMMUNIZATION ASSESSMENT OF KINDERGARDEN STUDENTS—ANNUAL REPORT (PM 236, 3/01) and CALIFORNIA SCHOOL IMMUNIZATION RECORD (PM 286,1/02), which are incorporated into regulation by reference.

This change is necessary to conform the current regulations to a recent statutory requirement. Varicella immunization was added as a requirement for continuing in and entry into, child care centers, family day care homes, nursery schools, day nurseries, development centers and for children entering schools who were not already admitted to school in California at the kindergarten or above level before July 1, 2001.

Specifically, this action amends Sections 6020, 6025, 6035, 6050, 6051, 6065, 6070 and 6075 of Title 17, California Code of Regulations.

AUTHORITY

Sections 100275, 120330 and 120335, Health and Safety Code.

REFERENCE

Sections 100325, 120335, 120365, 120370 and 120375, Health and Safety Code.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: Local health departments may incur a slight cost for the administration of each injection, however these costs are estimated to be minimal for each county.
- B. Fiscal Effect on State Government: The total cost for the initial year is \$8,620,000 that is comprised of \$5,555,400 General Fund (\$2,371,000 + \$2,757,000 + \$427,400) and \$3,064,600 Federal Fund (\$2,371,000 + 693,600). These costs have been included in the Medi-Cal November Estimates.
- C. Fiscal Effect on Federal Funding of State Programs: It is estimated that additional Federal Fund expenditures will total \$3,064,600 in FY 2001–2002. These costs have been included in the Medi-Cal November Estimates.
- D. All cost impacts, known to the Department at the time the notice of emergency action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the emergency action: The cost per vaccine for private persons is estimated to be \$46.00 plus a manufacturers mark-up and the \$9.00 per injection. The number of children in this category is unknown, but program considers this population to

be small. Third party insurance will likely incur the same cost as the private person; however, insurers are likely to provide a small offset in the form of a co-payment.

- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

Existing regulations (California Code of Regulations Title 17, Sections 6000–6075 and governing statutes (Health and Safety Code Sections 120325–120375) impose a mandated cost for screening pupil immunization records on school districts, pursuant to section 17561 of the Government Code. The State Controller's Office currently reimburses school districts for this cost. This reimbursement is in place and based on per pupil cost. The additional recording of Varicella immunization/immunity status will not affect the reimbursement.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

The reports to local health departments required by these regulations include the numbers of children immunized against varicella, numbers of children with varicella immunity from having the disease, numbers of children without varicella immunization based on medical exemption and numbers of children without varicella immunization based on the personal beliefs exemption. The reports are required to be made by businesses such as childcare businesses, developmental centers and public and private schools. The Department has determined that it is necessary for the health, safety or welfare of the people of California that these regulations apply to businesses.

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF REGULATIONS**

The Department has prepared and has available for public review an initial statement of reasons for the emergency regulations, all the information upon which the emergency regulations are based, and the text of the emergency regulations. A copy of the initial statement of reasons and a copy of the text of the emergency regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the emergency regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the emergency regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action was taken or would be as effective and less burdensome to affected private persons than the emergency action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-657-1411); FAX (916-657-0153); TDD (916-657-2861); or email (civilrights-ra@dhs.ca.gov).

**TITLE 18. STATE BOARD
OF EQUALIZATION****NOTICE IS HEREBY GIVEN**

The State Board of Equalization, pursuant to the authority vested in the Board by section 15606, subdivision (c) of the Government Code, proposes to amend Rule 281, "Appraiser" Defined, Rule 282, Temporary Certification, and Rule 283, Permanent Certification, and to adopt Rule 284, Retention and Revocation of Appraiser Certificate, in Title 18, Division 1, of the California Code of Regulations. A public hearing on the amended regulations and the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on December 18, 2002. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by December 18, 2002.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Under current law, Revenue and Taxation Code sections 670, 671, and 673, the Board of Equalization is responsible for the certification of appraisers and auditor-appraisers employed by counties, cities and counties, the state (i.e., the Board of Equalization), and appraisal commissions who value real and personal property for purposes of ad valorem taxation. Section 670 provides the requirements and criteria for the certification of appraisers and auditor-appraisers. Section 671 provides the annual training requirements necessary to maintain an appraiser certification. And, finally, section 673 provides the requirements and criteria for the temporary certification of appraisers and auditor-appraisers.

Rules 281, 282, and 283 are amended to make specific the requirements and criteria for the certification of appraisers and auditor-appraisers employed by counties and the state (i.e., the Board of Equalization) who value real and personal property for purposes of ad valorem property taxation and Rule 284 is proposed to make specific the requirements and criteria for the maintenance of such certificates.

Rule 281—"Appraiser" Defined. The proposed amendments specify those individuals who fall under the definition of "appraiser" for purposes of appraiser certification, as the rule was most recently amended in 1975, prior to the passage of Proposition 13 and the addition of Article XIII A to the California Constitution.

Rule 282—Temporary Certification. The proposed amendments recognize the certification of appraisers employed by appraisal commissions and the appropriate application of Revenue and Taxation Code section 673 to assessors.

Rule 283—Permanent Certification. The proposed amendments specify the relevant experience requirements for appraisers seeking certification by (1) adding additional qualifying job classifications, and (2) clarifying how the experience of non-appraiser employees of assessors' offices and the Property Taxes Department of the Board is counted towards meeting the four-year experience requirement.

Rule 284—Retention and Revocation of Appraiser Certificate. The proposed rule specifies the circumstances in which the Board of Equalization would proceed with a formal hearing under the Administrative Procedure Act to revoke an appraiser's certificate.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments of Rules 281, 282, and 283 and the proposed adoption of Rule 284 do not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed amendments and the proposed rule will not result in direct or indirect cost or savings to any State agency, any cost to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with § 17500) of Division 4 of Title 2 of the Government Code, or other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5, subdivision (a)(8), the Board of Equalization makes an initial determination that the proposed amendments and the proposed rule will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed amendments and the proposed rule will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed amendments and the proposed rule will not affect small business because the proposed amendments and the proposed rule only clarify existing interpretations of statute.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Rules 281, 282, and 283 and proposed Rule 284 have no comparable Federal regulations.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Revenue and Taxation Code sections 670, 671, 673, and 1716; Government Code section 24002.5.

CONTACT

Questions regarding the substance of the proposed amendments and the proposed rule should be directed to Mr. Anthony Epolite, Tax Counsel, Property Tax Section, telephone (916) 324-2642, fax (916) 323-3387, email anthony.epolite@boe.ca.gov or by mail to the State Board of Equalization, Attn: Anthony Epolite, MIC:82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or to Ms. Joann Richmond, Property Taxes Analyst, telephone (916) 322-1931, email Joann.Richmond@boe.ca.gov or by mail to the State Board of Equalization, Attn: Diane Olson or Joann Richmond, MIC:80, P.O. Box 942879, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared initial statements of reasons and underscored versions (express terms) of the proposed amendments and the proposed rule. This document and all information on which the proposals are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Diane Olson, Regulations Coordinator, (916) 322-9569, at P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080. The express terms of the proposed

amendments and the proposed regulation (rule) are available on the Internet at the Board's website <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Final statements of reasons will be made available on the Internet at the Board's website following its public hearing of the proposed amendments and the proposed rule. The final statements of reasons are also available for public inspection at the State Board of Equalization, 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with law, adopt the proposed amendments and the proposed rule if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the amendments and the rule. The text of the modified rule(s) will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule(s) will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified rule(s) for fifteen days after the date on which the modified rule(s) is made available to the public.

TITLE 18. STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1591, Medicines and Medical Devices, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on December 18, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 18, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law, Revenue and Taxation Code section 6369, provides an exemption from tax for sales of

medicines, as defined, under defined conditions. The statute provides that prosthetic and orthotic devices qualify as medicines within the meaning of the statute if they are worn on the body of the patient and perform other specified functions. The statute also provides that article implanted in the body of the patient must be permanently implanted, among other criteria, in order to qualify as medicines within the meaning of the statute.

Regulation 1591, Medicines and Medical Devices, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6369. Amendments are proposed to (1) provide that prosthetic and orthotic devices qualify as medicines if they come into sustained physical contact with the body of the patient (and satisfy the other criteria in the statute; (2) sales of Continuous Passive Motion Devices are exempt from tax; (3) move the exemption for sales of certain enteral feeding devices from subdivision (b) to subdivision (e) for clarity; and (4) provide that sales of tissue expanders are exempt from tax under defined conditions, and to correct clerical errors; and (5) specify that shoe inserts are excluded from the term "orthotic devices."

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed action will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1591 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendment to this regulation and the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulations may affect small business.

COST IMPACT ON PRIVATE PERSON
OR BUSINESSES

That Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1591 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6369 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez, telephone (916) 324-2952, fax (916) 322-2958, e-mail Mariflor.Jimenez@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF
REASONS AND TEXT OF
PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, CA. The notice, initial statement of

reasons and express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, CA.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

**TITLE 22. DEPARTMENT OF
HEALTH SERVICES**

NOTICE OF PROPOSED RULEMAKING

SUBJECT

Drinking Water Primary Maximum Contaminant
Level Revisions for Atrazine, Cyanide,
Ethylbenzene, Methoxychlor, Oxamyl,
and 1,2,4-trichlorobenzene, **R-16-01**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on December 4, 2002, which is hereby designated as the close of the written comment period. It is requested but not

required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments by FAX (916-657-1459) or email (regulation@dhs.ca.gov) must be received before 5:00 p.m. on the last day of the public comment period. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

CONTACTS

In any of the following inquiries, please identify the action by using the Department regulation control number, R-16-01:

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Alexis Milea of the Division of Drinking Water and Environmental Management at (510) 540-2177.
3. All other inquiries concerning the action described in this notice may be directed to Charles E. Smith of the Office of Regulations at (916) 657-0730, or to the designated backup contact person, Allison Branscombe, Chief of the Office of Regulations, at (916) 657-0692.

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) as well as by the California Department of Health Services (Department) under the California Safe Drinking Act (Sections 4040.1 and 116300–116750, Health and Safety Code [H&S Code]). California has been granted "primacy" for the enforcement of the Federal Act. In order to receive and maintain primacy, states must promulgate regulations that are no less stringent than the federal regulations.

In accordance with federal regulations, California requires public water systems to sample their sources and have the samples analyzed for inorganic and organic substances in order to determine compliance with drinking water standards, also known as maximum contaminant levels (MCLs). Primary MCLs are

based on health protection, technical feasibility, and costs. The water supplier must notify the Department and the public when a primary MCL has been violated and take appropriate action.

Pursuant to section 116365(g) of the H&S Code, the Department is mandated to periodically review primary MCLs. Since a major criteria for determining whether a revision should be made relates to current knowledge about contaminant risk, the Department has reviewed the existing MCLs within the context of public health goals (updated risk assessments) as they have been completed. The Cal/EPA Office of Environmental Health Hazard Assessment (OEHHA) has now completed public health goals (PHGs) for a number of the existing MCL contaminants. The Department conducted an initial screening to determine whether any of these MCLs merited a more comprehensive review.

In two separate lists in 1998 and 1999, the Department designated a number of chemicals selected for a more comprehensive review by this initial screening: Cyanide, ethylbenzene, oxamyl, atrazine, methoxychlor, and 1,2,4-trichlorobenzene were among those selected because the PHGs were below the MCLs and the PHGs reflected changes in perceived risk to public health.

The Department used the "Procedure for Reviewing Maximum Contaminant Levels (MCLS) for Possible Revision" that was finalized in August 1999 for its MCL reviews.

Review of the occurrence data in the Department's Water Quality Monitoring database for each of the chemicals listed above indicated that there were no detects above the PHGs, except one that was never confirmed. Several of the chemicals had no detects above the detection levels for purposes of reporting (DLRs) either (atrazine, methoxychlor and oxamyl). Thus, revising these MCLs would not result in any fiscal impact on water systems, but would provide greater health protection should a detection occur in the future. Therefore, the Department proposes to amend chapter 15, division 4, title 22 of the California Code of Regulations as follows:

- Table 64431-A would be amended to reduce the MCL for cyanide from 0.2 to 0.15 mg/L, to provide greater public health protection.
- Table 64444-A would be amended to reduce the MCLs for ethylbenzene and 1,2,4-trichlorobenzene from 0.7 and 0.07 mg/L to 0.3 and 0.005 mg/L, respectively, to provide greater health protection.
- Table 64444-B would be amended to reduce the MCLs for atrazine, methoxychlor, and oxamyl from 0.003, 0.04 and 0.2 mg/L to 0.001, 0.03, and 0.05 mg/L, respectively, to provide greater health protection.

- Table 64445.1-A would be amended to reduce the detection limit for reporting purposes (DLR) for atrazine from 0.001 mg/L to 0.0005 mg/L to provide for monitoring below the proposed MCL.
- Sections 64468.1, 64468.2 and 64468.3, article 19, which contain the language used to notify the public when there are MCL violations, would be amended to update the MCL levels in the text for each of the chemicals for which the MCL would be reduced.

The net effect would be that community and nontransient-noncommunity water systems would be required to comply with more stringent MCLs for cyanide, ethylbenzene, 1,2,4-trichlorobenzene, atrazine, methoxychlor, and oxamyl.

None of the proposed amendments would affect California's primacy status, because the net affect of these amendments is that the state's regulation would be more stringent than the federal, which is allowed.

In addition to the above amendments, the Health and Safety Code citations in the authority/reference NOTES for sections 64468.1, 64468.2, and 64468.3 would be amended for consistency with the relevant sections of the Health and Safety code as currently codified.

AUTHORITY

Sections 100275, 116350, 116365, 116375, and 116450, Health and Safety Code.

REFERENCE

Sections 116300 through 116750, Health and Safety Code.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: No fiscal impact exists.
- B. Fiscal Effect on State Government: No fiscal impact exists.
- C. Fiscal Effect on Federal Funding of State Programs: No fiscal impact exists.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which

reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department's review of the occurrence data in the Water Quality Monitoring database for each of the chemicals listed above indicated that there were no detects above the PHGs, except one that was never confirmed. Several of the chemicals had no detects above the detection levels for purposes of reporting (DLRs) either (atrazine, methoxychlor and oxamyl). Hence, there is no incremental fiscal impact associated with this regulation.

The Department has determined that the regulations will not significantly affect the following:

1. The creation or elimination of jobs within the State of California. The requirements summarized above should not have any affect in this area in that there would not be any change in water system or regulatory personnel needed for compliance with the new requirements.
2. The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the water industry is such that the proposed regulation will not result in the creation or elimination of water systems. The impact of these regulations would be insignificant.
3. The expansion of businesses currently doing business within the State of California. Since water system size is basically a function of the number of service connections (consumers) served, the proposed regulations should not have any affect on expansion.

The Department has determined that the proposed regulations would not affect small business, since Government Code Chapter 3.5, Article 2, Section 11342.610 excludes drinking water utilities from the definition of small business.

The Department has determined that the regulations will have no impact on housing costs.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. A copy of the initial statement of reasons and a copy of the text of the proposed regulations are available upon request by writing to the Office of Regulations at the address noted above,

which address will also be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the proposed regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-6571411); FAX (916-657-0153); TDD (916-657-2861); or email (civilrights-ra@dhs.ca.gov).

TITLE 22. DEPARTMENT OF HEALTH SERVICES

NOTICE OF PROPOSED RULEMAKING

SUBJECT

Minimum Licensed Nurse-to-Patient Ratios by Unit
Type in General Acute Care Hospitals (R-37-01)

PUBLIC PROCEEDINGS

In an effort to accommodate the high level of interest expressed regarding the subject of this rulemaking, the Department of Health Services is

providing a number of hearings in order to accommodate the geographic distribution and the large number of interested parties. Accordingly, notice is hereby given that the California Department of Health Services will conduct public hearings in:

1. Los Angeles, California at 10 a.m. on
November 15, 2002
Auditorium of the Ronald Reagan State Building,
300 South Spring Street, and
2. San Francisco, California at 10 a.m. on
November 19, 2002
Auditorium of the Edmund G. "Pat" Brown Building,
505 Van Ness Avenue, and
3. Fresno, California at 10 a.m. on
December 4, 2002
Room 1036 of the Fresno State Building,
2550 Mariposa Mall.

At these times any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereafter referred to as comments) relevant to the action described in this notice. At each of the public hearings, persons wishing to speak will be heard on a first-come, first-serve basis. In order to accommodate all who are anticipated to comment, speakers will be limited to ten minutes or less, depending on the number of people requesting to speak. Written comments of any length may be submitted for the record. Comments will not be discussed or debated, nor will speakers be cross-examined. A certified court reporter will record the proceedings and a transcript will be prepared for each public hearing.

COMMENTS

All written comments pertaining to these proposed regulations must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on December 6, 2002, which is hereby designated as the close of the written comment period. It is requested but not required that written comments, statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments may be transmitted by email (regulation@dhs.ca.gov), through the "Making Comments" link on the Department website at <http://www.dhs.ca.gov/regulation>, regular mail, or by FAX to either (916) 657-1530 or to (916) 657-1459. Again, comments must be received before 5:00 p.m. on December 6, 2002. Note: due to the anticipated volume of faxed responses, please send faxes as early as possible. Comments received after 5:00 p.m. on December 6, 2002 will not be considered timely.

All comments, including email, website or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

CONTACTS

In any of the following inquiries, please identify the action by using the Department regulation control number R-37-01:

Materials regarding the proposed regulations (including this public notice, the proposed regulations, and the Initial Statement of Reasons) that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/> and then clicking on the "Search Regulations" button.

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Gina Henning or Ruth Bedwell of the Licensing and Certification Division at (916) 327-0594.
3. All other inquiries concerning the action described in this notice may be directed to Barbara S. Gallaway, R.N., M.S.N., or Linda Tutor of the Office of Regulations, at (916) 654-0381.

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulations are proposed to implement the statutory mandates of the Health and Safety Code (HSC) section 1276.4. This section requires the California Department of Health Services (CDHS) to develop minimum, specific, numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit for acute care hospitals.

These regulations are proposed pursuant to the Department's authority in HSC sections 100275(a), 1275, and 1276.4 to adopt regulations. They implement, interpret, or make specific HSC sections 1250(a), 1276, 1276.4, 1797.58, and 1798.160.

Under current 22 CCR section 70217, general acute care hospitals are required to ensure that the nursing services provided meet the needs of the patients. Specifically, hospitals are required to utilize a Patient Classification System (PCS), which provides a method for establishing staffing requirements by unit, by patient, and by shift. The PCS is intended to set

nursing staffing levels that identify the nursing care requirements of individual patients, and indicate to the hospital the amount of nursing staff needed to provide the identified care.

The proposed regulations would amend 22 CCR section 70217, making specific the maximum number of patients assigned to each licensed nurse in the following hospital units: critical care, surgical service, perinatal service, pediatric service, postanesthesia recovery unit, emergency service, step-down unit, telemetry unit, medical/surgical care unit, specialty care unit, and psychiatric unit. The maximum number of telemetry patients is also specified for each person authorized to perform the function of monitoring telemetry screens.

Hospital facilities would be required to staff at the minimum levels prescribed in the proposed regulations. Nursing staff levels would increase in response to increasing patient acuity; i.e., the severity of the illness, the need for specialized equipment and technology, and the complexity of clinical judgment needed to design, implement, and evaluate the patient care plan.

Additionally, section 70225 would be amended to delete subsection (d), concerning surgery service staff, because the amendment of section 70217(a)(2) specifies staffing levels for the surgery service.

There are no comparable federal statutes or regulations that address minimum nurse staffing levels in general acute care hospitals. 42 Code of Federal Regulations 482.23(b) provides the following requirements for hospitals certified to participate in Medicare: "The nursing service must have adequate numbers of licensed registered nurses, licensed practical (vocational) nurses and other personnel to provide nursing care to all patients as needed."

These requirements are necessary to raise the minimum licensed nurse staffing standards in acute care hospitals, while allowing flexibility for hospitals to establish staffing levels tailored to unique patient needs.

The proposed regulations affect personnel employed in licensed General Acute Care Hospitals, including Registered Nurses, Licensed Vocational Nurses, Licensed Psychiatric Technicians, as well as persons authorized to perform the function of monitoring telemetry screens.

AUTHORITY

Sections 1275, 1276.4 and 100275(a), Health and Safety Code.

REFERENCE

Sections 1250(a), 1276, 1276.4, 1797.58 and 1798.160, Health and Safety Code.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: The costs to county hospitals will increase beginning in FY 2003–2004. That cost is included in the overall statewide cost of \$164,985,000 in FY 2003–2004; \$408,230,000 in FY 2004–2005; and \$486,490,000 annually thereafter.
- B. Fiscal Effect on State Government: Additional expenditures of \$22,634,000 in FY 2003–2004; \$55,798,00 in 2004–2005; and \$66,329,000 annually thereafter.
- The proposed regulations are expected to have a statewide impact of \$164,985,000 in FY 2003–04, \$408,230,000 in FY 2004–05, and \$486,490,000 annually thereafter for non-state-operated hospitals. Of that amount, the cost to the Medi-Cal program is expected to be \$43,253,000 (\$21,627,000 GF) in FY 2003–04, \$105,967,000 (\$52,983,500 GF) in FY 2004–05, and \$125,428,000 (\$62,714,000 GF) annually thereafter. In addition, the cost for state-operated general acute care hospitals is estimated to be \$1,007,000 GF in FY 2003–04, \$2,814,000 GF in FY 2004–05, and \$3,615,000 GF annually thereafter.
- C. Fiscal Effect on Federal Funding of State Programs: Additional expenditures of \$21,626,000 in FY 2003–2004; \$52,983,000 in FY2004–2005; and \$62,714,000 annually thereafter.
- D. The Department is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

The Department estimates that the total aggregate statewide dollar costs that the 495 hospitals in California may incur to comply with the proposed regulation is \$164,985,000 for Fiscal Year 2003–2004, \$408,230,000 for Fiscal Year 2004–2005, and \$486,490,000 annually thereafter. This includes the economic impact to both public and private sector hospitals, and costs to Medi-Cal. Because these hospitals vary significantly in size, services, and staffing models, this figure cannot be averaged for a representative single hospital.

- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: none.

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code. In accordance with the determination in *County of Los Angeles v. State of California* [43 Cal 3d 46

(1987)], the proposed regulations do not impose unique requirements on local government. All licensed general acute care hospitals in the State of California will be affected regardless of whether they are privately or publicly operated.

The Department of Health Services has made an initial determination that the amendment of these regulations may have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other States. The State Department of Health Services has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals.

Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance or reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

To the extent that the increased cost is passed along to patients and their insurance carriers, these regulations may have a deleterious effect on the State's hospitals' competitiveness for containing the cost of health care delivery compared with hospitals in other states. However, the Department has also made an initial determination that setting workload standards for licensed nurses in California may make the State more attractive to nurses in other states, enhancing the State's hospitals' competitiveness for the nursing workforce compared with hospitals in other states.

The Department of Health Services has identified the health care industry as the type of business that would be affected. The delivery of nursing care in general acute hospitals would be directly affected. There are possibly broader implications for other provider types if, as may be anticipated, the regulations result in a lighter workload for some nurses in acute hospitals, thus making that provider type more attractive and drawing nurses to acute care from other health care settings (e. g., nursing homes, home health agencies, etc.).

The Department does not anticipate that any significant number of new businesses will be created in the State of California. Some hospitals may curtail services by closing units if they are not able to comply with the proposed regulations. The number of nurse registries and travelling nurse agencies in the state may increase, especially in the short term, as hospitals increase shift staffing. Jobs may be created for

Registered Nurses, Licensed Vocational Nurses, and Psychiatric Technicians, but jobs may concurrently be lost for other job classifications in hospitals, if hospitals downsize in other employee categories for cost savings to offset the cost of recruiting and hiring additional nurses.

There are no new reporting or recordkeeping requirements that would result from this proposed rulemaking.

The Department has determined that the regulations may affect small businesses.

The Department has determined that the regulations will have no impact on housing costs.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. A copy of the initial statement of reasons and a copy of the text of the proposed regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the proposed regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made no later than 21 days prior to the close of the written

comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-657-1411); FAX (916-657-0153); TDD (916-657-2861); or email (civilrights-ra@dhs.ca.gov).

TITLE 23. DEPARTMENT OF WATER RESOURCES

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS UNDER THE YUBA FEATHER FLOOD PROTECTION PROGRAM OF THE SAFE DRINKING WATER, CLEAN WATER, WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

NOTICE IS HEREBY GIVEN that the Department of Water Resources proposes to amend its regulations establishing a process for funding feasibility studies under the Yuba Feather Flood Protection Program to include funding for designs. The regulations to be amended are entitled "Yuba Feather Flood Protection Program of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act" and are found in Title 23, California Code of Regulations, Division 2, Chapter 2.5.2, commencing with Section 499.1, effective March 6, 2001. The amendments are indicated by strikeout and underline in the proposed text of regulations and are available on request from the agency official designated in this notice. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action at a hearing to be held at the following location on the following date:

December 2, 2002
10:00 a.m. to 12:00 p.m.
Department of Water Resources, Room 1603
1416 Ninth Street
Sacramento, California 94236-0001.

Room 1603 is accessible to persons with disabilities and can be reached by taking the high rise elevators to the 16th floor. The nearest off-street parking is on the corner of 10th and P Street and is accessed from 10th Street.

Written comments may also be hand-delivered to the Department of Water Resources, Office of the Chief Counsel, Room 1118, Attention: Katherine A. Spanos, mailed to the Department, attention Katherine A. Spanos, at P.O. Box 942836, Sacramento, California 94235-0001; faxed to the Department. Attention Katherine A. Spanos, (916) 653-6295, or e-mailed to Katherine A. Spanos at kspanos@water.ca.gov. Such additional written comments will be received until 5 p.m. on December 2, 2002.

AUTHORITY AND REFERENCE

These regulations are authorized by Water Code Section 79068.20. The regulations implement, interpret and make specific Chapter 5, Article 8, commencing with Section 79068, of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000. Water Code Sections 8300, 12580 and 12609 give the Department general authority to participate in designs for flood control projects.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Proposition 13, the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000, is a general obligation bond law passed by the voters of California in March 2000. The Flood Protection Program is contained in Chapter 5 of that Act; and Article 8 of Chapter 5, beginning at Water Code Section 79068, contains the Yuba Feather Flood Protection Program. The Act authorizes the issuance of \$1,970,000,000 in general obligation bonds, the proceeds of which are to be placed in an account created by the Act. Article 8 of Chapter 5 of the Act transfers \$90 million into a subaccount for purposes of implementing the Yuba Feather Flood Protection Program. \$70 million of that amount is for implementing flood protection projects along the Yuba and Feather Rivers, Colusa Basin Drain, and their tributaries, and \$20 million is to be used by the Department of Fish and Game for mitigation for flood protection projects funded by the program.

The proposed rulemaking would amend the existing regulations that set up a process for funding feasibility studies for projects to be implemented under this program to include funding for designs, would substitute references to "implementation" for references to "construction", and would make related and other nonsubstantive changes. The existing regulations were adopted on March 6, 2001 to allow feasibility studies of the projects to proceed immediately. This regulatory action will allow the agency to fund the project design stage of the program. Regulations providing for project implementation funding will be submitted for adoption at a later date.

The proposed amendments retain all sections of the existing permanent regulations and add new sections containing a description of what a completed design will include, requirements and time constraints for environmental compliance, and requirements related to the contents of a design grant application.

FEDERAL CONFORMITY

The proposed regulations deal exclusively with relationships between state governments and local public entities, although actions of the local public entity involving the federal government are mentioned peripherally. There is no known existing comparable

federal regulation or statute. DWR finds that these regulations have no conflict with or duplication of federal regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate On Local Agencies And School Districts: None

Cost or Savings to Any Local Agency or School District That is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.

Other Nondiscretionary Cost Or Savings Imposed On Local Agencies: FEMA and flood insurance requirements may be reduced, resulting in a cost savings to local communities.

Costs Or Savings To Any State Agency: None

Cost Or Savings In Federal Funding To The State: There is the potential for this program to develop opportunities for federal cost-sharing on future flood control projects, resulting in an increase of federal funds appropriated to the State.

Significant Effect On Housing Cost: To the extent the program promotes projects to reduce flood risk, housing will be preserved that otherwise could be lost or uninhabitable following a high water event. The preservation of this housing stock will help maintain affordable housing.

Significant Statewide Adverse Economic Impact Directly Affecting Business Including The Ability Of California Businesses To Compete With Businesses In Other States: No adverse economic impact would result. There may be a potential economic benefit resulting from reduced flood risk, enhancing California businesses' ability to compete with businesses in other states.

Cost Impacts On a Representative Private Person Or Business: The regulations will not result in an adverse cost impact. The potential for reduced flood risk could result in reduced flood insurance requirements and enhanced business competitiveness.

Small Business Determination: The Department has determined that the proposed regulations may have an effect on small business. The design grant program is voluntary and there may be a potential for benefit from the enforcement of the regulations to the extent that a grant recipient may hire a small business to prepare portions of the design. The express terms of the proposed action written in plain English are available from the agency contact person named in this Notice.

Assessment Regarding The Creation Or Elimination Of Jobs In California: The Department of Water Resources has determined that the adoption of these regulations will not: (1) create or eliminate jobs within

California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California. Results of reduced flood risk may enhance local business' economic viability.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no alternative it considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed action at the above-mentioned hearing or during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDED REGULATIONS

The Department of Water Resources has prepared an initial statement of reasons for the proposed amendments and has available all the information upon which the proposal is based. Copies of the exact language of the proposed amended regulations and the statement of reasons and other information, if any, may be obtained from the Department upon request from the contact person listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department of Water Resources may adopt the proposed regulations if they remain substantially the same as described in this notice. The Department of Water Resources may make changes in the proposed regulations before adopting them. The text of any modified regulations will be made available to the public with the changes clearly marked at least fifteen (15) days before the Department adopts the regulations as revised. A request for the modified text, if there is one, should be addressed to the agency official designated in this notice. The Department of Water Resources will accept comments on the modified regulations for 15 days after the date on which the text is made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

The Department will prepare a final statement of reasons when all comments have been received and considered, prior to closing the rulemaking record. The statement will be posted on the Department of

Water Resources Internet site (see below) and may also be obtained from the Department upon request from the contact person listed below.

CONTACT PERSON FOR FURTHER INFORMATION

Anyone wishing further information about the proposed amended regulations, the initial statement of reasons, the full text of the regulation language proposed to be adopted, or the information on which the proposal is based may contact Katherine A. Spanos in the Office of the Chief Counsel, Department of Water Resources, at (916) 653-6295. All of the above information is available for inspection and copying. The address for inquiries by mail is:

Department of Water Resources
Office of the Chief Counsel
Attention: Katherine A. Spanos
1416 Ninth Street, Room 1118
P.O. Box 942836
Sacramento, CA 94236-0001

For substantive contact:

Department of Water Resources
Mike Banner
Yuba-Feather Program
(916) 653-6402

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the proposed amendments in underline and strikeout format can be accessed through DWR's website at http://www.dwr.water.ca.gov/dir_Water_Bond_2001.

GENERAL PUBLIC INTEREST

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

**CALIFORNIA REGULATORY REGISTER
NOTICE ACTION DESCRIPTION FOR A
CONSOLIDATION HAZARDOUS WASTE
TRANSPORTATION VARIANCE ISSUED BY
THE STATEWIDE COMPLIANCE DIVISION,
TRANSPORTATION SECTION, FOR
ARTITECTS CONSTRUCTION**

On September 26, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to Artitects Construction, a registered transporter of hazardous waste, to conduct consolidation operations authorized by the California Code of Regulations, title 22, section 66263.45. The variance permits the grantee to

transport waste oil, paint, adhesive, and aerosols to the grantee's central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

California Environmental Quality Act (CEQA) Exemption. The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee's temporary hazardous waste storage facility is located at 32643 Highway 74, Hemet, California 92545. The variance expires on September 30, 2003. For more information, please contact Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

PROPOSITION 65

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES
October 18, 2002**

**DECEMBER 4, 2002 MEETING OF THE
SCIENCE ADVISORY BOARD'S
DEVELOPMENTAL AND REPRODUCTIVE
TOXICANT (DART)
IDENTIFICATION COMMITTEE**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

The Developmental and Reproductive Toxicant (DART) Identification Committee of OEHHA's Science Advisory Board identifies chemicals for addition

to the list of chemicals known to the State to cause reproductive toxicity, which is mandated by Health and Safety Code Section 25249.8. The Committee serves as the "State's qualified experts" for determining whether a chemical has been clearly shown, through scientifically valid testing according to generally accepted principles, to cause reproductive toxicity.

A public meeting of this committee will be held on **Wednesday, December 4, 2002** at 722 Capitol Mall, Employment Development Department, Auditorium, Sacramento, California, beginning at 10:00 a.m. and continuing until all business has been conducted, or 5:00 p.m.

OEHHA is committed to public participation and external scientific peer review in its efforts to implement Proposition 65. OEHHA welcomes public input on any of the agenda items identified below. The Committee prefers that information for its consideration be presented in writing prior to its meetings so that it can give due consideration to the material and so that it can devote time at the meetings to discussion and clarification, rather than to extensive oral testimony. The public comment period for the draft hazard identification documents on the two chemicals named below will close on November 19, 2002. Any other written comments on any of the other agenda items should also be submitted by November 19, 2002 to Cynthia Oshita, Proposition 65 Implementation Office, 1001 I Street, 19th floor, Sacramento, California 95814 or P.O. Box 4010, Sacramento, California 95812-4010. Oral comments may be made to the Committee at the meeting on December 4, 2002.

The draft documents describing the "Evidence on the Developmental and Reproductive Toxicity of Diuron" and "Evidence on the Developmental and Reproductive Toxicity of Bromacil Lithium Salt," are available from the Proposition 65 Implementation Office at (916) 445-6900 or from the OEHHA web site at <http://www.oehha.ca.gov/>. Copies of the materials related to the possible designation of the Center for Evaluation of Risks to Human Reproduction as an authoritative body, and consideration of the requests for the expedited review of perchlorate and 1-bromopropane for Proposition 65 listing are also available from the Proposition 65 Implementation Office or from the hyperlinks provided.

The order in which the Committee takes up items is subject to change at the discretion of the Chair. The tentative agenda for this meeting is as follows:

**I. INTRODUCTION OF NEWLY APPOINTED
CHAIRPERSON AND MEMBER**

A. Administering Oath of Appointment

II. CONSIDERATION OF A CHEMICAL AS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

A. Diuron

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and decision

III. CONSIDERATION OF A CHEMICAL, LISTED VIA THE AUTHORITATIVE BODIES MECHANISM, FOR POSSIBLE REMOVAL FROM THE LIST

A. Bromacil Lithium Salt

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and decision

IV. CONSIDERATION OF DESIGNATION OF THE CENTER FOR EVALUATION OF RISKS TO HUMAN REPRODUCTION AS AN AUTHORITATIVE BODY

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and decision

V. REQUESTS FOR EXPEDITED REVIEW

A. CONSIDERATION OF PERCHLORATE

- Staff briefing of request
- Public comments
- Committee discussion and decision

B. CONSIDERATION OF 1-BROMOPROPANE

- Staff briefing of request
- Public comments
- Committee discussion and decision

VI. STAFF REPORTS

- Status of chemical listings via the administrative listing mechanisms
- Proposition 65 litigation and rulings
- Public comment

VII. SUMMARY OF COMMITTEE ACTIONS

Links to:

DART Identification Committee Roster
Governor's Press Release, August 22, 2002

Links to CERHR documents:

NTP-CERHR Expert Panel Report on the Reproductive and Developmental Toxicity of *1-Bromopropane*, March 2002 [http://cerhr.niehs.nih.gov/news/1-BP_final.pdf]

NTP-CERHR Expert Panel Report on the Reproductive and Developmental Toxicity of *2-Bromopropane*, March 2002 [http://cerhr.niehs.nih.gov/news/2-BP_final.pdf]

NTP-CERHR Expert Panel Report on *Butyl Benzyl Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/BBP-final-inprog.PDF>]

NTP-CERHR Expert Panel Report on *Di-n-Butyl Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/dbp-final.inprog.PDF>]

NTP-CERHR Expert Panel Report on *Di(2-ethylhexyl) Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/DEHP-final.pdf>]

NTP-CERHR Expert Panel Report on *Di-n-Hexyl Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/DnHP-FINALinprog.PDF>]

NTP-CERHR Expert Panel Report on *Di-Isodecyl Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/DIDP-final-inprog.PDF>]

NTP-CERHR Expert Panel Report on *Di-Isononyl Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/DINP-final-inprog.PDF>]

NTP-CERHR Expert Panel Report on *Di-n-Octyl Phthalate*, October 2000 [<http://cerhr.niehs.nih.gov/news/DnOP-final-inprog.PDF>]

NTP-CERHR Expert Panel Report on the Reproductive and Developmental Toxicity of *Methanol*, April 2002 [http://cerhr.niehs.nih.gov/news/methanol_final.pdf]

Links to documents related to perchlorate request:

Natural Resources Defense Council et al. request letter
Communities for a Better Environment request letter
OEHHA response letters

OEHHA Draft Public Health Goal for *Perchlorate* in Drinking Water, March 2002 [<http://www.oehha.ca.gov/water/phg/pdf/PHGperchlorate372002.pdf>]

U.S. Environmental Protection Agency *Perchlorate* Environmental Contamination: Toxicological Review and Risk Characterization (External Review Draft, January 16, 2002) [<http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=24002>]

Links to documents related to 1-bromopropane request:

Department of Health Services request letter
OEHHA response letter

NTP-CERHR Expert Panel Report on the Reproductive and Developmental Toxicity of *1-Bromopropane*, March 2002 [http://cerhr.niehs.nih.gov/news/1-BP_final.pdf]

DECISION NOT TO PROCEED

CALIFORNIA APPRENTICESHIP COUNCIL

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code section 11347, the California Apprenticeship Council has elected not to proceed with rulemaking noticed as OAL Notice Z02-0903-05, published on September 13, 2002 in the California Regulatory Notice Register, No. 37-Z.

The intended rulemaking, which deals with public works apprenticeship hearings, will be republished and renoticed for public comment without any substantive changes.

The contact person for all matters relating to this rulemaking is:

Diane Ravnik
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3**

PETITIONER

Jean Lynn; Penny Blach; Kim Foster; Barbara Oldershaw; Esther Sandoval; Donna Sanders; Chana Orozco; Maria Orozco; Virginia Orozco; Mary Limon-Miley; Ima Carter; Theresia Berry; Stephenie Ho; Lois Chatman; Jo Ann Fawcett Richards; Jovonna Mc-Christian; Elizabeth Harmuth; Susana Quezada; Marlene and Robert Van Alstine; Jill Scaffidi; Janet Lee Spedding; Aliese Moran, Felipia Orozco; Dario Orozco.

AUTHORITY

Under authority established in Penal Code (PC) § 5058, the Director may prescribe and amend regulations for the administration of prisons. PC § 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, or employment of persons confined therein.

CONTACT PERSON

Please direct any inquiries in writing regarding this action to Rick Grenz, Chief, Regulation and Policy Management Branch, Department of Corrections, PO Box 942883, Sacramento, CA 94283-0001, or by telephone at (916) 322-9702.

AVAILABILITY OF PETITION

The petition for adoption of the regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner requests the Department of Corrections (CDC) "delete" and "rewrite" regulations contained in the California Code of Regulations (CCR), Title 15, Division 3, Subchapter 2, Article 7, § 3174(e)(2), which specifies that family visits will not be permitted for inmates who have been sentenced to life, designated Close A or Close B custody, condemned, assigned to a reception center, assigned to an Administrative Segregation (AD SEG) or Security Housing (SHU) unit, designated "C" status, guilty of one or more Division A or B offenses within the last twelve months, or guilty of narcotics trafficking while incarcerated. As "rewritten," the regulation would stipulate that family visits for the described classes of inmates would be permitted on a "case-by-case" basis. Petitioner states that the regulation, as currently written, serves no reasonable penological interest and punishes several classes of inmates in direct conflict to the Department's stated recognition of the value of visiting as a method of maintaining family relationships.

DEPARTMENT DECISION

The Director of Corrections denies the petition to delete this existing regulation or amend the rule to provide any class of inmates described in § 3174(e), case-by-case consideration for family visiting privileges. Without new statute, case law, or changes in the policies of other public agencies which would compel the regulatory changes requested, CDC lacks the legal or discretionary authority to voluntarily make the changes requested. Moreover, a number of the named classes, and specifically those under close custody, assigned to AD SEG or SHU, designed C status, or guilty of certain offenses, already receive "case-by-case" reconsideration for family visiting once their status changes.

The rules at issue were promulgated in 1995 and have survived court challenges and prior Administrative Procedure Act petitions. In these challenges an appellate court upheld the penological basis of the rules: "The protection of the safety of the public—particularly those family members who would be visiting these inmates in an unsupervised setting—is a

legitimate interest that state prison officials may consider when determining which inmates may participate in the family visiting program.”

Regarding inmates condemned or sentenced to life, CDC does not establish such sentences and it has no ability to compel the Board of Prison Terms, a separate organizational entity of the Youth and Adult Corrections Agency, to establish parole dates. Nor can CDC be party to deletion of this rule in order to circumvent the Board’s authority over the establishment of parole dates for specific inmates. As articulated by the Governor as recently as last year, expanding eligibility for unsupervised overnight visits would create a serious inconsistency in the current security practices enforced for life prisoners.

All of the remaining “classes of inmates” covered by this regulation are not necessarily denied family visiting opportunities on a permanent basis. Their eligibility for such visits depends on institutional assignment, conduct, time frames, positive programming, rules violation clarifications and other such factors evaluated by classification committees on a case-by-case basis in accordance with other regulations contained in the Director’s Rules. Therefore, these inmates already receive “case-by-case” consideration for restoration of family visiting privileges, if otherwise eligible.

Finally, the value of visiting as a means of maintaining family relationships has actually been reaffirmed recently with the revision of inmate visiting regulations, consistent with legislation chaptered in this session (AB 2133). The following language is CDC’s preferred text: “The value of visiting is recognized and encouraged as a means for an inmate to establish and maintain meaningful family and community relationships.” It is anticipated that this rule will be adopted by the end of this calendar year. CDC believes that the inmate exceptions to family visiting contained in § 3174(e) are legitimate and warranted as discussed above and do not represent a repudiation or inconsistency in policy as the petitioner suggests.

Therefore, for the reasons cited, and pending other action by the Governor, Legislature, or Courts the Department disagrees with the need for the regulatory change. Accordingly, the petition is denied.

DEPARTMENT OF CORRECTIONS

NOTICE OF DECISION ON PETITION TO REPEAL REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Division 3

PETITIONER

Michael D. Cooley

AUTHORITY

Under authority established in Penal Code (PC) Section 5058 the Director may prescribe and amend regulations for the administration of prisons. PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.

CONTACT PERSON

Please direct any inquiries regarding this action to Rick Grenz, Chief, Regulation and Policy Management Branch, Department of Corrections, PO Box 942883, Sacramento, CA 94283-0001, or telephone (916) 322-9702.

AVAILABILITY OF PETITION

The petition for adoption of the regulations is available upon request directed to the Department’s contact person.

SUMMARY OF PETITION

Petitioner requests the Department of Corrections “delete” regulations contained in the California Code of Regulations (CCR), Title 15, Division 3, Subchapter 2, Article 7, § 3174(e)(2) which specifies that family visits will not be permitted for inmates who have been sentenced to life, without a parole date established by the Board of Prison Terms. Petitioner states that the regulation as currently written serves no reasonable penological interest, punishes an entire class of inmates due to the failure of the Board of Prison Terms to comply with the law as stated by the California Supreme Court (*In re Rodriguez*, 14Cal.3rd 639), and stands in direct conflict to the Department’s stated recognition of the value of visiting as a method of maintaining family relationships.

DEPARTMENT DECISION

The Director of Corrections denies the petition to delete this existing regulation or amend the rule to provide this, or any other class of inmates described in § 3174(e), case-by-case consideration for family visiting privileges. Absent new statute, case law, or changes in the policies of other public agencies which would compel the regulatory changes requested, the Department lacks the legal or discretionary authority to voluntarily make the changes requested.

The rules at issue were promulgated in 1995 and have survived court challenges and prior Administrative Procedure Act petitions. In these challenges an appellate court upheld the penological basis of the rules: “The protection of the safety of the public—particularly those family members who would be visiting these inmates in an unsupervised setting—is a

legitimate interest that state prison officials may consider when determining which inmates may participate in the family visiting program.”

Existing state law includes provisions that allow persons sentenced to prison to be sentenced to a specific term of imprisonment or to an indeterminate term with the possibility of parole. The explicit power to allow parole for prisoners for indeterminate sentence terms that are otherwise legally eligible for parole is vested with the Board of Prison Terms (BPT) and *not* the Department of Corrections. As a separate organizational entity of the Youth and Adult Corrections Agency the Department of Corrections cannot compel the BPT to establish parole dates. Nor can the Department be party to deletion of this rule in order to circumvent the Board’s authority over the establishment of parole dates for specific inmates. In addition, the Supreme Court decision cited by the petitioner has very limited applicability to the matter at hand. In this decision the court announced that, “in the absence of a prompt fixing of a term by the [BPT], the term, for the purpose of assessing its constitutionality, will be deemed to have been fixed at maximum.” As stressed above, the Department and the BPT are separate governmental entities and the Department cannot compel the BPT to affix maximum terms in accordance with an interpretation this particular court ruling.

Finally, the value of visiting as a means of maintaining family relationships has actually been reaffirmed recently with the revision of inmate visiting regulations, consistent with legislation chaptered in this session (AB 2133). The following language is the Department’s preferred text: “The value of visiting is recognized and encouraged as a means for an inmate to establish and maintain meaningful family and community relationships.” It is anticipated that this rule will be adopted by the end of this calendar year. The Department believes that the inmate exceptions to family visiting contained in § 3174(e) are legitimate and warranted as discussed above and do not represent a repudiation or inconsistency in policy as the petitioner asserts.

Therefore, for the reasons cited and pending other action by the Governor, Legislature or Courts the Department disagrees with the need for the regulatory deletion. Accordingly, the petition is denied.

**DEPARTMENT OF
TOXIC SUBSTANCES CONTROL**

October 4, 2002

Mr. Phillip B. Chandler
2615 Marquette Drive
Topanga, California 90290

PETITION PURSUANT TO GOVERNMENT CODE SECTION 113450.6 OF PHILLIP B. CHANDLER TO THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL FOR REVIEW OF CALIFORNIA CODE OF REGULATIONS, TITLE 22, SECTIONS 66264.101 AND 66265.101

Dear Mr. Chandler:

Thank you for your interest and concern regarding financial assurances for the completion of corrective action at hazardous waste facilities. The Department of Toxic Substances Control (DTSC) shares your concerns that proper financial assurances are provided as required by statute. The petition addresses a concern that, even though it is known that corrective action will be necessary at a site, financial assurance provisions are not triggered until remedy selection has been completed.

For the reasons discussed below, I believe that the existing regulations, and DTSC’s policies in implementing them, are consistent with the authorizing statutes. However, DTSC will study the policies related to financial assurance for corrective action to determine if any additional measures that are both practical and more protective of public health, safety, and the environment can be developed. As part of this effort, I will ask staff to conduct a public workshop on the issue of financial assurance for corrective action and report back to me regarding potential changes to our policy and our program that would help ensure that proper financial assurance is provided.

The petition notes that Health and Safety Code section 25200.10, subdivision (b), states that the “permit” shall contain schedules for corrective action and assurances of financial responsibility. The California Code of Regulations, title 22, section 66264.101, subdivision (b), and section 66265.101, subdivision (c), states that those schedules and assurances will be contained in the “permit or order.” The petition requests that the cited regulations be amended to delete the words “or order.”

As you are aware, when issuing a permit where corrective action is required, DTSC’s procedure is to also issue a Corrective Action Consent Agreement (CACA) and to incorporate the CACA into the permit by reference. Therefore, the incorporation of the CACA into the permit satisfies the requirement that the schedules be in the permit.

Furthermore, California and federal statutes and regulations on the subject of financial assurance for corrective action are substantially the same. There is no guidance available at the State level to aid in interpreting the statutes and regulations you have cited. Since these statutes and regulations were adopted subsequent to their federal counterparts, it is reasonable to conclude that the intention was to adopt

the federal program. In the absence of final rules, program implementers and facility owner/operators have the flexibility to tailor financial responsibility requirements to facility-specific circumstances.

Finally, the DTSC approach to this issue was developed consistent with United States Environmental Protection Agency (U.S. EPA) guidance on financial responsibility for facilities subject to Resource Conservation and Recovery Act (RCRA) corrective action. The corrective action program implemented by the Regional Water Quality Control Boards and cleanups implemented by the Site Mitigation and Brownfields Reuse Program are similarly consistent on this matter. Nevertheless, our commitment to studying the issues your petition has raised concerning DTSC policies in a public workshop format is described in the second paragraph of this letter.

The minor differences between the wording of the regulations and the statute you have cited do not constitute an actual conflict. The regulations are applied in a manner consistent with the statute in that corrective action orders and agreements are incorporated by reference into the appropriate hazardous waste facility permits. As a result, both the schedules for compliance and the assurances of financial responsibility contained in the relevant orders and/or agreements become part of the hazardous waste facility permit. There is, therefore, no difference between the operation of the regulations and the requirements of the statute. Because DTSC's procedure is consistent with both the statutes and the regulations governing financial assurance for corrective action, your petition is denied.

Pursuant to Government Code section 11340.7, subdivision (d), this decision will be transmitted to the Office of Administrative Law for publication in the *California Regulatory Notice Register* at the earliest practicable date. Interested persons may obtain a copy of the petition from DTSC by contacting Ms. Terri Nieto at (916) 324-7193 or at <tnieto@dtsc.ca.gov>.

If you have any questions regarding this decision, please contact Mr. Frederick Moss, Chief of the Permitting Division, at (916) 324-0845.

Sincerely,

Edwin F. Lowry
Director

cc: The Honorable Sheila Kuehl
Member of the Senate
State Capitol, Room 4032
Sacramento, California 95814

The Honorable Fran Pavley
Member of the Assembly
State Capitol, Room 5144
Sacramento, California 95814

Mr. Watson Gin, P.E.
Deputy Director
Hazardous Waste Management Program
Department of Toxic Substances Control
1001 "I" Street, 11th Floor
P.O. Box 806
Sacramento, California 95812-0806

Mr. Frederick Moss, Chief
Permitting Division
Hazardous Waste Management Program
Department of Toxic Substances Control
1001 "I" Street, 11th Floor
P.O. Box 806
Sacramento, California 95812-0802

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Asbestos control measures

This nonsubstantive amendment changes the wording of an effective date from 120 days after approval/filing on 7/22 to November 19, 2002 in order to improve clarity to the public. The effective date is unchanged.

Title 17
California Code of Regulations
AMEND: 93105(a)(1)
Filed 10/08/02
Effective 10/08/02
Agency Contact:

Robert C. Jenne (916) 322-2884

BOARD OF CHIROPRACTIC EXAMINERS

Investigators; Authority to Inspect Premises

This action would provide that the Board or its designee may inspect the physical premises of any chiropractic office during regular business hours.

Title 16
California Code of Regulations
ADOPT: 306.3

Filed 10/02/02
Effective 11/01/02
Agency Contact:

Lavella Matthews (916) 263-6465

BOARD OF CHIROPRACTIC EXAMINERS**Display of License**

In this regulatory action, the Board of Chiropractic Examiners amends and clarifies the requirements regarding licensed chiropractors displaying their licenses in their principal offices or primary places of practice and obtaining and displaying Satellite Office Certificates in their additional places of practice.

Title 16
California Code of Regulations
AMEND: 308

Filed 10/08/02
Effective 11/07/02

Agency Contact:
Lavella Matthews (916) 263-6465

**CALIFORNIA GAMBLING CONTROL
COMMISSION****Registration of Manufacturers and Distributors of
Gambling Equipment**

This emergency regulatory action establishes registration and reporting requirements for manufacturers and distributors of slot machines and other gambling equipment in California.

Title 4
California Code of Regulations
ADOPT: 12300, 12301, 12302, 12303, 12304,
12305, 12306, 12307, 12308

Filed 10/07/02
Effective 10/07/02

Agency Contact: Herb Bolz (916) 263-0700

**CALIFORNIA UNEMPLOYMENT INSURANCE
APPEALS BOARD****Definitions, Decisions and New Evidence**

This action would exclude case management documents from the definition of a case file; would clarify that only evidence of the observed demeanor, manner, or attitude of the witness supporting the determination must be included in the decision issued by the administrative law judge; and would require any new or additional documentary evidence to be attached to applications to present new or additional evidence.

Title 22
California Code of Regulations
AMEND: 5000, 5065, 5102

Filed 10/07/02
Effective 11/06/02

Agency Contact: Laura Colozzi (916) 654-7712

**COMMISSION ON PEACE OFFICER STAN-
DARDS AND TRAINING****Field Training Program**

This rulemaking updates the field training program requirements for the programs which nearly all departments employing peace officers must provide and which all patrol officers, as specified, must undergo. These requirements are effective as of July 1, 2003.

Title 11
California Code of Regulations

ADOPT: 1012 AMEND : 1001, 1004, 1005, PAM
D-13 REPEAL : former 1005

Filed 10/07/02
Effective 07/01/03

Agency Contact: Leah Cherry (916) 227-3891

DEPARTMENT OF CHILD SUPPORT SERVICES**Program Administration—Administrative
Reporting—Quality Control—Performance Standards**

This filing is a certificate of compliance for emergency regulations filed on September 6, 2001 and readopted on March 5, 2002 which specified data submission requirements for local child support agencies. The requirements are the same as those imposed by the regulation being repealed in this action, and those imposed by other state and federal laws. The reporting involves a variety of collection and distribution data and service activity statistics for the child support program and data related to performance measures. The emergency regulations were deemed an emergency pursuant to section 17306(e)(2) of the Family Code and remained in effect for 180 days.

Title 22
California Code of Regulations
ADOPT: 111900, 111910, 111920, 121100, 121120,
121140 REPEAL : (MPP) 12-435

Filed 10/09/02
Effective 10/09/02

Agency Contact: Lucila Ledesma (916) 464-5087

DEPARTMENT OF CONSERVATION**SB 528 Predatory Pricing Regulations**

This Certificate of Compliance conforms the Department's regulation on unfair and predatory pricing by supermarket site recycling centers to statutory changes made by SB 528 (Chapter 874, Statutes 2001). (Previous OAL files 02-0213-01E and 02-0614-02EE)

Title 14
California Code of Regulations
AMEND: 2135

Filed 10/08/02
Effective 10/08/02

Agency Contact: Karen Denz (916) 322-1899

DEPARTMENT OF CORRECTIONS
DNA Collection

This regulatory action is deemed an emergency based upon the certification of operational necessity by the Chief Deputy Director, Field Operations, pursuant to section 5058.3 of the Penal Code. This regulatory action amends provisions governing the sample or specimen collection of DNA based upon changes made by Senate Bill 1242.

Title 15
California Code of Regulations
AMEND: 3025, 3315
Filed 10/04/02
Effective 10/04/02
Agency Contact: Rick Grenz (916) 324-4331

DEPARTMENT OF FISH AND GAME
Oil Spill Response Organization Rating

This regulatory action amends the requirements for the Oil Spill Response Organization (OSRO) Rating Program pursuant to AB 715 (Chap. 748, Statutes of 2001).

Title 14
California Code of Regulations
ADOPT: 819.06, 819.07 AMEND : 815.03, 815.05, 817.02, 817.03, 818.02, 818.03, 819, 819.01, 819.02.8, 19.03, 819.04, 819.05
Filed 10/09/02
Effective 10/09/02
Agency Contact: Joy Lavin-Jones (916) 327-0910

DEPARTMENT OF FOOD AND AGRICULTURE
Melon Containers

Based on a petition from the Western Growers Association on behalf of melon growers, this rulemaking adds a new, more convenient size melon container and repeals outmoded restrictions which require closed containers and lids.

Title 3
California Code of Regulations
AMEND: 1380.19(h), 1420.10, 1442.7 REPEAL : 1420.9, 1442.10
Filed 10/09/02
Effective 11/08/02
Agency Contact:
Robert A. Cummings (916) 654-0919

DEPARTMENT OF SOCIAL SERVICES
Calworks 60- month Time Limit Procedures

This emergency readoption deals with the Cal-Works 60-month time limit procedures. (Prior OAL Files 02-0219-02E and 02-0626-02EE; California Department of Social Services ORD#1201-23.)

Title MPP
California Code of Regulations
ADOPT: 40-107.141, .142, .143, .144, .15, . 151, .152; 42-302.114, .114(a)-(c), .21(h)(l), .3; 44-

133.8; 82-833 AMEND : 40-107.14, 16, .17, .18, .19; 42-301.2; 44-133.51; 82-823
Filed 10/02/02
Effective 10/28/02
Agency Contact:
Anthony J. Velasquez (916) 657-2586

FAIR POLITICAL PRACTICES COMMISSION
Prop. 34—COLA Adjustment Contribution and Expenditure Limits

This regulation adopts a formula for calculating contribution limitations in Government Code sections 85301, 85302, and 85303 to reflect changes in the California Consumer Price Index (CPI). The regulation also adopts a formula for calculating voluntary expenditure ceilings in Government Code section 85400 based on the CPI. The action is exempt from OAL's review and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 2
California Code of Regulations
ADOPT: 18544
Filed 10/04/02
Effective 10/04/02
Agency Contact: Luisa Menchaca (916) 322-5660

FAIR POLITICAL PRACTICES COMMISSION
Reporting Pursuant to GC section 85310

This regulation concerns reporting payments over a specified amount (\$50,000 or more) to the Secretary of State for communication identifying a candidate. This action adopts the requirement that this report also include a description of the method of media (television, radio, print, etc.) communication for which the payment was made. The action is exempt from OAL's review and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 2
California Code of Regulations
AMEND: 18539.2
Filed 10/09/02
Effective 10/09/02
Agency Contact: Hyla Wagner (916) 322-5660

FISH AND GAME COMMISSION
WaterFowl Hunting

This regulatory action revises definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits for California's waterfowl hunting regulations. The Fish and Game Commission has asked OAL for an expedited review and early effective date as some of these seasons open as early as October 12, 2002.

Title 14
California Code of Regulations
AMEND: 502, 507(c)
Filed 10/09/02
Effective 10/12/02
Agency Contact: John M. Duffy (916) 653-4899

FRANCHISE TAX BOARD

Offset of Interest Incurred for Foreign Investment

This action updates the regulation specifying when interest expense incurred for foreign investment may be deducted in computing net income, by replacing the obsolete definition of an affiliated corporation / commonly controlled group with a reference to Revenue and Taxation Code section 25105, and correcting an error in the definition of foreign investment.

Title 18
California Code of Regulations
AMEND: 24344(c)
Filed 10/08/02
Effective 11/07/02
Agency Contact:
Colleen Berwick (916) 845-3306

STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998

This regulatory action modifies provisions governing the district financial hardship analysis process.

Title 2
California Code of Regulations
AMEND: 1859.81, 1859.91
Filed 10/04/02
Effective 11/03/02
Agency Contact: Lisa Jones (916) 322-1043

STATE MINING AND GEOLOGY BOARD

Reclamation Plan Contents

This action requires surface mining operations to have only one reclamation plan, except as specified, and describes when a reclamation plan must be amended and the standards applicable to amended plans.

Title 14
California Code of Regulations
AMEND: 3502
Filed 10/03/02
Effective 11/02/02
Agency Contact:
John G. Parrish (916) 322-1082

STATE MINING AND GEOLOGY BOARD

Financial Capability Determinations

This action establishes hearing procedures for determining whether a mining operator must forfeit

the mandatory financial assurance to implement the approved reclamation plan under specified circumstances.

Title 14
California Code of Regulations
ADOPT: 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817
Filed 10/03/02
Effective 11/02/02
Agency Contact: Kit Gonzales (916) 322-1082

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JUNE 05, 2002 TO
OCTOBER 09, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

10/09/02 AMEND: 18539.2
10/04/02 AMEND: 1859.81, 1859.91
10/04/02 ADOPT: 18544
09/16/02 AMEND: 1859.79, 1859.79.3, 1859.81.1, 1859.83, 1859.107
09/12/02 AMEND: 18110, 18401, 18404.1, 18451, 18540, 18705.4, 18997
09/09/02 AMEND: 1859.92, 1859.104, 1859.105, 1859.107
08/19/02 ADOPT: 18535
08/14/02 ADOPT: 56, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8
08/12/02 ADOPT: 1859.71.2, 1859.78.4, 1859.108
AMEND: 1859.50, 1859.70, 1859.72, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102, 1859.107
08/12/02 ADOPT: 57.1, 57.2, 57.3, 57.4
08/07/02 ADOPT: 59000
07/31/02 ADOPT: 18450.1
07/25/02 AMEND: 2970
07/11/02 AMEND: 18707.4
07/11/02 AMEND: 554.6
07/11/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210,

1859.211, 1859.212, 1859.213, 1859.214,
1859.215, 1859.216, 1859.217, 1859.218,
1859.219, 1859.220

06/27/02 ADOPT: 18450.3, 18450.4, 18450.5
AMEND: 18402

06/27/02 ADOPT: 2351

06/25/02 AMEND: 1189.10

06/20/02 REPEAL: 548.96

06/20/02 AMEND: 561.2, 561.3

06/17/02 AMEND: 18239, 18615, 18616

06/06/02 ADOPT: 18572

Title 3

10/09/02 AMEND: 1380.19(h), 1420.10, 1442.7
REPEAL: 1420.9, 1442.10

09/19/02 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
6784 AMEND: 6000 REPEAL: 6450,
6450.1, 6450.2, 6450.3, 6784

09/10/02 AMEND: 3700(c)

09/09/02 AMEND: 6414

08/30/02 AMEND: 3423(b)

08/29/02 AMEND: 1408.3

08/19/02 ADOPT: 3664, 3665, 3666, 3667, 3668,
3669

08/14/02 AMEND: 6172, 6192, 6200, 6252

08/13/02 AMEND: 3423(b)

07/25/02 AMEND: 3423(b)

07/23/02 ADOPT: 7015

07/18/02 AMEND: 6000, 6710

07/11/02 AMEND: 3700(b)

07/03/02 AMEND: 1392.1, 1392.2, 1392.4,
1392.9.1

07/01/02 ADOPT: 1180.3.1, 1180.3.2 AMEND:
300(c)

06/20/02 REPEAL: 3431, 3591.17

06/13/02 ADOPT: 1366

06/13/02 AMEND: 2303(t)

06/11/02 AMEND: 3425(b)

06/10/02 AMEND: 6391, 6393, 6394, 6395

06/10/02 AMEND: 3406(b)

Title 4

10/07/02 ADOPT: 12300, 12301, 12302, 12303,
12304, 12305, 12306, 12307, 12308

09/12/02 ADOPT: 8110, 8111, 8112, 8113, 8114,
8115, 8116, 8117, 8118, 8119, 8120,
8121, 8122, 8123, 8124, 8125

09/03/02 AMEND: 1107

08/15/02 ADOPT: 4144

08/13/02 AMEND: 7000, 7001, 7002, 7003,
7003.5, 7004, 7005, 7006, 7007, 7008,
7009, 7010, 7011, 7012, 7013, 7013.1,
7013.5, 7014, 7015, 7016, 7017

08/08/02 AMEND: 8072, 8074

07/30/02 AMEND: 2050

07/08/02 AMEND: 2049

07/01/02 ADOPT: 12100, 12102, 12104, 12106,
12108, 12110, 12120, 12130

Title 5

08/15/02 ADOPT: 11980, 11981, 11982, 11983,
11984, 11985,

08/13/02 ADOPT: 11969.10 REPEAL: 11969.9

07/31/02 AMEND: 30950, 30951.1, 30952, 30953,
30954, 30955, 30956, 30957, 30958,
30959

07/30/02 ADOPT: 11969.1, 11969.2, 11969.3,
11969.4, 11969.5, 11969.6, 11969.7,
11969.8, 11969.9

07/29/02 AMEND: 3051.16, 3065

07/15/02 AMEND: 80105, 80109, 80110, 80111,
80112, 80113, 80114, and 80115

07/12/02 AMEND: 51010, 53000, 53001, 53002,
53003, 53004, 53005, 53006, 53020,
53021, 53022, 53023, 53024, 53025,
53026, 53027, 53030, 53033, 53034

06/28/02 ADOPT: 11983.5

06/11/02 AMEND: 11530, 11531

06/05/02 AMEND: 59311, 59328, 59342

Title 8

10/01/02 AMEND: 3457(b)

09/25/02 AMEND: 451, 527

09/19/02 AMEND: 14004, 14005

09/12/02 AMEND: 1671.2

09/09/02 ADOPT: 13635.1, 13655, 13656, 13657,
13658, 13659 AMEND: 13630, 13631,
13632, 13633, 13634, 13635, 13637,
13638, 13639, 13640, 13641, 13642,
13643, 13644, 13645, 13646, 13647,
13648, 13649, 13650, 13651, 13652,
13653, 13654

09/03/02 ADOPT: 20299

08/26/02 ADOPT: 340.40, 340.41, 340.42, 340.43,
340.44, 340.45, 340.46, 340.47, 340.48,
340.49, 340.50, 340.51, 340.52

08/05/02 AMEND: 3362

07/31/02 AMEND: 4799

07/30/02 ADOPT: 290.0, 290.1, 291.0, 291.1,
291.2, 291.3, 291.4, 291.5, 292.0, 293.0,
294.0, 295.0

07/11/02 AMEND: 3241(a)

07/01/02 ADOPT: 417.5 AMEND: 406,
411.1, 415, 417.3 REPEAL: 411.2, 411.3,
411.4

06/20/02 AMEND: 3700, 3702

06/18/02 AMEND: 5189

06/12/02 AMEND: 9791.1, 9792.5, 9793, 9795

Title 9

07/31/02 ADOPT: 9851, 9874 AMEND: 9800,
9846, 9852, 9854, 9856, 9858, 9867,
9876, 9884, 9886 REPEAL: 9857

06/28/02 ADOPT: 9526, 9531 AMEND: 9500,
9505, 9515, 9530, 9535

Title 10

09/25/02 ADOPT: 2698.90, 2698.91
 09/25/02 AMEND: 250.9.1(a), 250.12(a), 250.51,
 350.60(a), 260.001, 260.100.1,
 260.100.3, 260.102.4(b), 260.102.8(b),
 260.102.16, 260.103, 260.105.28,
 260.105.33, 260.111, 260.112, 260.113,
 260.121, 260.131, 260.140.71.2,
 260.140.87(e), 260.140.110.2, 260.140.11
 09/19/02 AMEND: 2851, 2851.1
 08/30/02 AMEND: 5101
 08/29/02 AMEND: 2698.200, 2698.201, 2698.301,
 2698.302
 08/28/02 AMEND: 2698.73
 08/28/02 ADOPT: 2278, 2278, 2278.1, 2278.2,
 2278.3, 2278.4, 2278.5
 08/27/02 AMEND: 2632.5(d)(11)
 08/20/02 ADOPT: 1729, 1741.5, 1950.302
 AMEND: 1741.5
 08/19/02 AMEND: 2130.3
 08/15/02 ADOPT: 5480, 5480.1, 5480.2, 5480.3,
 5480.4, 5480.5, 5480.6, 5480.7, 5480.8
 08/12/02 AMEND: 2318.6
 08/12/02 AMEND: 2318.6, 2353.1
 08/05/02 REPEAL: 310.100.1
 07/10/02 ADOPT: 1422, 1423
 07/02/02 AMEND: 6070
 06/24/02 ADOPT: 2698.68
 06/20/02 AMEND: 2498.6
 06/20/02 ADOPT: 2729.5, 2790.6, 2846.1
 AMEND: 2790.1, 2791.8, 2792, 2800,
 2810, 2811, 2910, 2911, 2912, 2930
 06/17/02 ADOPT: 2193, 2193.1, 2193.2, 2193.3
 06/07/02 AMEND: 5.2001 and Appendix
 06/06/02 AMEND: 2698.70, 2698.71 REPEAL:
 01-1219-06 E

Title 11

10/07/02 ADOPT: 1012 AMEND: 1001, 1004,
 1005, PAM D-13 REPEAL: former 1005
 09/18/02 ADOPT: 61.8
 08/29/02 AMEND: 3000, 3001, 3003, 3007, 3008
 08/27/02 AMEND: 1070, 1082
 08/13/02 AMEND: 1005
 07/02/02 ADOPT: 410, 411, 415, 416, 417, 418,
 419, 419.1, 419.2, 419.3, 420, 421, 422,
 423, 424, 425, 426 REPEAL: 410, 411,
 415, 416, 417, 418, 419, 420, 421, 422,
 423, 424, 425, 426
 07/01/02 AMEND: 1081
 06/27/02 AMEND: 987.1
 06/19/02 ADOPT: 999.10, 999.11, 999.12, 999.13,
 999.14, Appendix A

Title 13

09/16/02 AMEND: 1960.1, 1960.5, 1961, 1962,
 07/25/02 AMEND: 422.01

07/22/02 ADOPT: 2444.2 AMEND: 2111, 2112,
 2139, 2140, 2147, 2440, 2441, 2442,
 2443.1, 2443.2, 2443.3, 2444, 2445.1,
 2445.2, 2446
 07/10/02 AMEND: 1213.1, 1230, 1239
 07/05/02 ADOPT: 225.00, 225.03, 225.06, 225.09,
 225.12, 225.15, 225.18, 225.21, 225.24,
 225.27, 225.30, 225.33, 225.36, 225.39,
 225.42, 225.45, 225.48, 225.51, 225.54,
 225.57, 225.60, 225.63, 225.66, 225.69,
 225.72
 06/24/02 AMEND: 1270
 06/24/02 ADOPT: 1962.1 AMEND: 1900, 1962
 06/18/02 AMEND: 1

Title 13, 17

09/12/02 ADOPT: 1969, 60060.1, 60060.2,
 60060.3, 60060.4, 60060.5, 60060.6,
 60060.7

Title 14

10/09/02 AMEND: 502, 507(c)
 10/09/02 ADOPT: 819.06, 819.07 AMEND:
 815.03, 815.05, 817.02, 817.03, 818.02,
 818.03, 819, 819.01, 819.02.8, 19.03,
 819.04, 819.05
 10/08/02 AMEND: 2135
 10/03/02 AMEND: 3502
 10/03/02 ADOPT: 3810, 3811, 3812, 3813, 3814,
 3815, 3816, 3817
 10/01/02 ADOPT: 3940, 3941, 3942, 3943, 3944,
 3945, 3946, 3947, 3948
 10/01/02 AMEND: 3650, 3652, 3653, 3655, 3656,
 3658
 09/30/02 AMEND: 17400, 17402, 17402.5
 09/30/02 AMEND: 3901, 3909, 3910
 09/19/02 AMEND: 3626, 3627, 3628
 09/18/02 AMEND: 300(a) REPEAL: 502.1
 09/12/02 AMEND: 120.3
 09/12/02 ADOPT: 105.5 REPEAL: 195
 09/09/02 AMEND: 550, 551, 552
 09/09/02 ADOPT: 712
 09/04/02 ADOPT: 104.1
 08/28/02 ADOPT: 786.7, 786.8 AMEND: 786.0,
 786.1, 786.2, 786.3, 786.4, 786.5, 786.6
 08/26/02 ADOPT: 18090.0, 18090.1, 18090.2,
 18090.3, 18091.1, 18092.0, 18093.0,
 18093.1, 18094.0 AMEND: 18011
 08/21/02 AMEND: 7.50 (b)(212)
 08/13/02 ADOPT: 844.3, 844.4, 844.5 AMEND:
 790, 840, 840.1, 841, 842, 843, 843.1,
 843.2, 843.3, 843.4, 843.6, 843.7, 843.8,
 843.9, 844, 844.1, 844.2, 844.6, 844.7,
 845, 845.1, and 845.2
 08/12/02 ADOPT: 150.02, 150.04
 08/09/02 AMEND: 670.2
 08/06/02 AMEND: 28.59

07/31/02 ADOPT: 50.00, 50.01, 50.02, 50.03, 51.00, 51.01, 51.02, 51.04, 51.05, 155.01, 155.05, 155.10 AMEND: 109

07/25/02 AMEND: 791.7; Forms FG OSPR-1925, FG OSPR-1947, and FG OSPR-1972.

07/25/02 ADOPT: 18085, 18086, 18087, 18088 AMEND: 18011, 18056

07/17/02 AMEND: 2090, 2105, 2420, 2425, 2530, 2690 renumbered to 2850

07/15/02 ADOPT: 916.13, 936.13, 956.13, 916.13.1, 936.13.1, 956.13.1, 916.13.2, 936.13.2, 956.13.2, 916.13.3, 936.13.3, 956.13.3, 916.13.4, 936.13.4, 956.13.4, 916.13.5, 936.13.5, 956.13.5, 916.13.6, 936.13.6, 956.13.6, 916.13.7, 936.13.7, 956.13.7, 916.13.8, 936

07/12/02 AMEND: 895.1, 898, 914.8, 934.8, 954.8, 916, 936, 956, 916.2, 936.2, 956.2, 916.9, 936.9, 956.9, 916.11, 936.11, 956.11, 916.12, 936.12, 956.12, 923.3, 943.3, 963.3, 923.9, 943.9, 963.9

06/28/02 ADOPT: 708 AMEND: 265, 308, 360, 361, 362, 363, 364, 365, 367, 368, 401, 555, 601, 711 REPEAL: 370, 371, 372, 373

06/27/02 ADOPT: 4971

06/25/02 AMEND: 7.50

06/24/02 AMEND: 791, 791.5, 791.7, 792, 793, 794, 795, 796, and 797.

06/20/02 ADOPT: 17211, 17211.1, 17211.2, 17211.3, 17211.4, 17211.5, 17211.6, 17211.7, 17211.8, 17211.9

06/19/02 AMEND: 2030

06/19/02 AMEND: 2135

06/18/02 AMEND: 11900

06/13/02 ADOPT: 17402.5(c)(6), 17402.5(d)(3) AMEND: 17400, 17402, 17402.5

06/06/02 ADOPT: 749.1

06/05/02 AMEND: 1.1, 6159, 6170, 6170.5, 6171, 6179, 6184, 6185, 6200, 6206, 6222, 6243, 6254, 6255, 6262

Title 14, 27

06/21/02 AMEND: 18104.8, 18105.9, 18105.10, 21140

Title 15

10/04/02 AMEND: 3025, 3315

09/30/02 AMEND: 3006

08/27/02 ADOPT: 3375.5 AMEND: 3000, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3377

08/19/02 ADOPT: 3426

07/24/02 ADOPT: 3220.2, 3220.3 AMEND: 3220, 3220.1

07/12/02 AMEND: 3000, 3454, 3456, 3457, 3458, 3459, 3460, 3462, 3463, 3464

Title 16

10/08/02 AMEND: 308

10/02/02 ADOPT: 306.3

09/24/02 AMEND: 1999.5

09/23/02 AMEND: 306.2

09/13/02 AMEND: 1811

09/11/02 ADOPT: 1706.5, Article 5, Article 6, Article 7, Article 8, Article 10, Article 10.1. AMEND: 1703, 1704, 1705, 1706, 1706.1, 1707.1, 1707.3, 1708.2, 1708.3, 1708.4, 1709, 1710, 1715.6, 1716, 1716.1, 1716.2, 1717, 1717.1, 1717.2, 1717.4, 1718, 1718.1, 171

09/10/02 AMEND: 1305, 1306, 1328

09/10/02 AMEND: 331-12.2(e)

09/09/02 AMEND: 438

08/20/02 AMEND: 1382.3

08/08/02 AMEND: 1707.2

08/07/02 ADOPT: 4140, 4141, 4142, 4143

08/01/02 ADOPT: 3367, 3368

07/31/02 AMEND: 2473

07/30/02 AMEND: 1399.523

07/26/02 AMEND: 3340.16, 3340.16.5, 3340.17, 3340.32, 3340.42, 3340.50 REPEAL: 3340.16.7

07/17/02 AMEND: 1387.1

07/03/02 AMEND: 3394.4 and 3394.6

07/01/02 ADOPT: 638, 639, 640, 641

06/12/02 ADOPT: 4, 9, 12, 12.5, 13, 14 AMEND: 6, 7, 9, 9.1, 10, 11.5, 37, 50

Title 17

10/08/02 AMEND: 93105(a)(1)

09/24/02 AMEND: 6020, 6025, 6035, 6050, 6051, 6065, 6070, 6075

09/04/02 ADOPT: 94200, 94201, 94202, 94203, 94204, 94205, 94206, 94207, 94208, 94209, 94210, 94211, 94212, 94213, 94214

08/29/02 AMEND: 57332

08/22/02 ADOPT: 33001, 33002, 3303, 33004, 33005, 33006, 33007, 33008, 33010, 33011, 33012, 33013, 33014, 33015, 33025, 33050 AMEND: 33020, 33030, 33040 REPEAL: 33001, 33010

08/20/02 ADOPT: 93112

08/19/02 ADOPT: 94164, 94165 AMEND: 94010, 94011, 94153, 94155, 94163,

08/08/02 AMEND: 58420

08/08/02 AMEND: 30253

07/22/02 ADOPT: 93105

07/17/02 ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551, 2552, 2553, 2596 2614, 2626

06/28/02 AMEND: 6508

06/10/02 AMEND: 90700, 90701, 90702, 90703, 90704, 90705 & to the tables in Section 90705

Title 18

- 10/08/02 AMEND: 24344(c)
- 09/19/02 AMEND: 305.1
- 09/03/02 AMEND: 1541
- 09/03/02 AMEND: 1540
- 09/03/02 ADOPT: 1534
- 08/20/02 AMEND: 1528
- 08/19/02 AMEND: 1543
- 07/02/02 ADOPT: 1533.2
- 06/11/02 ADOPT: 1123, 1124, 1161, 1178, 1435, 1436 AMEND: 1101, 1105, 1120, 1132, 1134, 1420, 1422, 1430 REPEAL: 1103, 1104, 1106, 1107, 1108, 1114, 1115, 1116, 1117, 1118, 1119, 1121, 1131, 1133, 1151, 1152, 1153, 1154, 1155, 1171, 1172, 1173, 1174, 1175, 1176
- 06/11/02 ADOPT: 255, 263, 264, 265 AMEND: 252, 254, 261, 304 REPEAL: 253, 256, 262
- 06/11/02 AMEND: 21 REPEAL: 23, 24, 25, 26
- 06/07/02 ADOPT: 1525.7
- 06/07/02 ADOPT: 1533
- 06/07/02 AMEND: 1533.1
- 06/06/02 ADOPT: 1507
- 06/05/02 AMEND: 1111, 1122, 1137, 1177, 1413, 1470; section 1470 withdrawn from the instant filing.
- 08/06/02 ADOPT: 63000.17, 63000.47, 63000.66, 63000.70, 63000.81, 63000.84, 63000.85, 63000.86, 63000.87, 63000.88, 63015, 63058 AMEND: 63000.19, 63000.37(and renumbered to 63000.67), 63000.40, 63000.43, 63000.62, 63000.86 (and renumbered to 63000.89), 63000.89
- 08/05/02 AMEND: 68200, 68201, 68202, 68203, 68204, 68205, 68206, 68207, 68208, 68209, 68210, 68211, 68212, 68213, 68214
- 08/01/02 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30, Appendix
- 07/22/02 ADOPT: 111550
- 07/18/02 AMEND: 12705, 12805
- 07/16/02 AMEND: 51503, 51503.2, 51504, 51505.1, 51505.2, 51505.3, 51507, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51527, 51529, 51535.5
- 07/15/02 ADOPT: 64860
- 07/03/02 ADOPT: 66268.31.5 AMEND: 66261.32, 66261.33, Ch. 11 App. VII, Ch. 11 App. VIII, 66268.7, 66268.33, 66268.39.5, 66268.40 and table entitled "Treatment Standards for Hazardous Wastes, 66268.48, 66268.49, Ch. 18 App. VII.
- 06/19/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5, 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12 OSP 02 70133-756
- 06/10/02 ADOPT: 100178.1 AMEND: 100177, 100178

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- 09/12/02 ADOPT: 2575, 2575.1, 2575.2, 2576, 2576.1, 2577, 2577.1, 2577.2, 2577.3, 2577.4, 2577.5, 2577.6, 2577.7, 2577.8, 2578, 2578.1, 2578.2
- 09/12/02 ADOPT: 2575, 2575.1, 2575.2, 2576, 2576.1, 2577, 2577.1, 2577.2, 2577.3, 2577.4, 2577.5, 2577.6, 2577.7, 2577.8, 2578, 2578.1, 2578.2, 2578.3

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- 10/09/02 ADOPT: 111900, 111910, 111920, 121100, 121120, 121140 REPEAL: (MPP) 12-435
- 10/07/02 AMEND: 5000, 5065, 5102
- 09/30/02 ADOPT: 110550 AMEND: 110413, 113100, 113200, 113300 REPEAL: 12-401.1, 12-104.432
- 09/23/02 AMEND: 66261.9
- 09/03/02 ADOPT: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107
- 09/03/02 AMEND: 40633
- 08/27/02 AMEND: 12601, 12201
- 08/22/02 ADOPT: 110385, 110449, 110554, 118020, 118203
- 08/21/02 AMEND: Chapter 1 ; Section 7000
- 08/14/02 ADOPT: 111560
- 08/06/02 ADOPT: 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85,

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- 08/15/02 ADOPT: 110041, 110042, 110098, 110284, 110299, 110428, 110539, 110609, 112002, 112015, 112025, 112034, 112035 AMEND: 110430, 110431, 110473, 112100, 112110, 112130, 112140, 112150, 112152, 112154, 112155, 112200, 112210 112300, 112301, 112302, REPEAL: 12
- 08/09/02 ADOPT: 80075.1, 82075.2, 87575.2, 87925 AMEND: 80001, 80061, 82001, 82061, 87101, 87561, 87801, 87861
- 08/09/02 AMEND: 80001, 80006, 80061, 80065, 80068.3, 80071, 80075, 80077.2, 80077.3, 80077.4, 80087, 80090, 80092.1, 80092.2, 80092.3, 80092.4, 80092.6, 80092.7, 80092.8, 80092.9, 80092.10 80092.11 REPEAL: 80095
- 08/07/02 AMEND: 101218.1, 102419, 102421

08/01/02 AMEND: 87101, 87565, 87566, 87568, 87589

07/24/02 ADOPT: 110000, 110042, 110046, 110088, 110099, 110109, 110129, 110135, 110147, 110148, 110150, 110164, 110182, 110184, 110186, 110194, 110200, 110220, 110224, 110230, 110252, 110261, 110289, 110341, 110410, 110431, 110436, 110445, 110456, 110474, 110478,

07/23/02 ADOPT: 87227.1, 87583.1 AMEND: 80007(a), 87101(s), 87107(a), 87114, 87118(a), 87222(a), 87561(a)(1)(A), 87585(a), 87587, 87700, 87702, 87807(a), 87854(d)

06/26/02 ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 97010, 97010.1, 87010.2, 87017, 87018, 87019, 87019.1, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 87031, 8

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09/25/02 AMEND: 645, 717(c), 767(b)

09/19/02 AMEND: 3937

08/27/02 ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4, 3410.5

08/23/02 ADOPT: 2729, 2729.1

08/08/02 AMEND: 3953

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10/01/02 AMEND: 7202, 7234

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07/23/02 ADOPT: 10010(a), 10010(b), 10010(c), 10010(d) REPEAL: 10010

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08/19/02 ADOPT: 1300.73.21

08/12/02 ADOPT: 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008

07/17/02 ADOPT: 1300.67.05

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10/02/02 ADOPT: 40-107.141, .142, .143, .144, .15, . 151, .152; 42-302.114, .114(a)-(c),

.21(h)(l), .3; 44-133.8; 82-833 AMEND: 40-107.14, 16, .17, .18, .19; 42-301.2; 44-133.51; 82-823

09/30/02 AMEND: 63-403.1, 63-405.134, 63-409.122, 63-502.31

08/30/02 ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520, 16-601, 16-610, 16-701, 16-750, 16-801 AMEND: 20-300, 44-302,

08/06/02 AMEND: 63-102, 63-103, 63-300, 63-301, 63-503

08/01/02 AMEND: 42-701.2(w), 42-710.1, 42-710.2, 42-710.3, 42-711.522(c)(1), 42-711.544, 42-711.91, 42-711.931, 42-711.941, 42-712.441(a), 42-718.21, 42-719.11, 42-719.111, 42-719.2, 42-719.3, 42-721.511(d)

08/01/02 AMEND: 40-181.1(e); 42-710.6; 42-711.5, .6, &.8, 42-721.1&.4; 44-314.1&.2; 80-301(r); and 82-812.6

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